

Quarterly Report
OF THE
ATTORNEY GENERAL
OF
ALABAMA



FOR THE PERIOD
FROM APRIL 1, 1977
THROUGH JUNE 30, 1977

WILLIAM J. BAXLEY, Attorney General
VOLUME 167

**SKINNER PRINTING COMPANY
INDUSTRIAL TERMINAL
MONTGOMERY, ALABAMA**

WILLIAM J. BAXLEY

Attorney General

GEORGE L. BECK

Deputy Attorney General

L. B. SULLIVAN
Executive Assistant

WALTER S. TURNER
Chief Assistant Attorney General

BERNARD F. SYKES
Chief, Criminal Division

ASSISTANT ATTORNEYS GENERAL

Ray Acton
Eric A. Bowen
Julian Brackin
Linda Breland
Quentin Q. Brown Jr.
Kent B. Brunson
Henry H. Caddell
Edward E. Carnes
David W. Clark
Benjamin Cohen
James R. Cooper, Jr.
Jack M. Curtis
Harry Young Dempsey
Vanzetta P. Durant
Winston Durant
Geo. Daniel Evans
Sarah M. Greenhaw
Rosa G. Hamlett
Ellis D. Hanan
Eugenia Hofammann

Barry Hutner
Leonard G. Kendrick
Lynda Knight
Winston Lett
Charles L. Little
Randolph G. Lurie
William A. McKnight
Julian C. McPhillips
Frederick S. Middleton, III
Larry R. Newman
Jane L. Robbins
George W. Royer, Jr.
John Rucker
Winston Sheehan
Carol Jean Smith
William T. Stephens
James L. Sumner, Jr.
James S. Ward
Jerry Lee Weidler
John Yung

**ASSISTANT ATTORNEYS GENERAL ASSIGNED TO OTHER
DEPARTMENTS**

**AGRICULTURE AND
INDUSTRIES:**

George O. Miller

CONSERVATION:

William G. O'Rear

Chief Counsel

Robert A. Macrory

EXAMINERS OF ACCOUNTS:

Don E. Lawley

Chief Counsel

Jim DeBardelaben

FINANCE:

James R. Solomon, Jr.

FORESTRY:

William Espy

HIGHWAY:

Lucien L. Smith, Jr.

Chief Counsel

Edward H. Brogden

Mrs. Julia H. Griswold

Jack F. Norton

Don J. McKinnon

INDUSTRIAL RELATIONS:

Arthur Reid

George Cocoris

INSURANCE:

Charles H. Barnes

Thomas F. Parker

MENTAL HEALTH:

Robert L. Humphries

Francis P. Ralph

R. Emmett Poundstone, Jr.

PENSIONS AND

SECURITY:

Mary Lee Stapp,

Chief Counsel

William S. LaBahn

Clyde P. McClendon

Jamie L. Pettigrew

Carol F. Miller

Mike Couch

PUBLIC HEALTH:

John Wible

REVENUE:

Willard W. Livingston,

Chief Counsel

John J. Breckenridge

Herbert I. Burton, Jr.

William H. Burton

Philip C. Davis

B. Frank Loeb

James R. Payne

Ron Bowden

YOUTH SERVICES:

Claude Lavender

WATER IMPROVEMENT COMM.

Greg Kneisel

QUARTERLY REPORT

of the

ATTORNEY GENERAL

of

ALABAMA

For the Period

From April 1, 1977

Through June 30, 1977

**TO THE STATE, COUNTY, AND MUNICIPAL OFFICERS
OF ALABAMA:**

This Quarterly Report of the Attorney General of Alabama, which includes all official opinions rendered by the Attorney General from April 1, 1977 through June 30, 1977, is published in compliance with the provisions of Title 55, Section 228 Code of Alabama, 1940.

Under this section of the Code, I am required to send seven copies of this Quarterly Report to each judge of probate in the State, and the judge of probate, in turn, is required to deliver one copy each to the clerk of the circuit court, the sheriff, the tax collector, the tax assessor, the county superintendent of education, and the deputy district attorney of his county. The section also requires that I send a copy of this report to each district attorney and the chief executive officer of each incorporated municipality in the State.

The office of the Attorney General is anxious to render prompt and efficient service to the State, County, and municipal officials. If you have any suggestions to make regarding the improvement of the service, I shall be glad to hear from you.

Sincerely,

WILLIAM J. BAXLEY

Attorney General

OPINIONS

I N D E X

**QUARTERLY REPORT OF THE ATTORNEY GENERAL FOR THE
PERIOD APRIL 1, 1977 THROUGH JUNE 30, 1977.**

Page

— A —

AD VALOREM TAX:

Title 51, Section 2(f), as amended, Code of Alabama 1940,
grants exemption from ad valorem taxation to the per-
sons named therein and the exemption applies to the
fair and reasonable market value of the property owned
by those qualifying for the exemptions 48

Monroe County Farm Bureau, Inc., is not exempt from ad
valorem taxes on property rented to the Farm Bureau
Service Center of Monroe County, Inc. The use to
which property is put is the factor to consider when
determining tax exempt status, not who owns the prop-
erty. If one portion of tax exempt property loses its
tax exempt status, the entire property loses its status 32

ARRESTS:

Constitutional privileges of legislators of immunity from
arrest only applies to civil arrests and does not pro-
vide immunity from arrest for traffic violations 18

ATTORNEYS:

Payment of attorney's fees in civil rights judgments dis-
cussed 52

— C —

CIRCUIT CLERKS AND REGISTERS:

Circuit Clerk may refuse to accept for filing any new or
post-judgment action if the pre-filing fee is not paid 15

Clerks and registers who did not give required notice are
automatically covered by supernumerary fund 21

CONSTITUTIONALITY:

Payment of fee by defendant for jury trial in circuit court
is constitutional 42

COST AND FEES:

State Departments are not required to prepay docketing
fees, nor prepay post judgement fees 34

COUNTIES:

The state may not reimburse counties for expenses incurred in the utilization of voting machines	25
County Commission must pay for cost of newspapers pursuant to Title 7, Section 724, Code of Alabama 1940 (Recompiled 1958), as amended	47
In establishing a countywide water system, a county commission may contribute to the cost and expense of upgrading and increasing the capacity of existing Municipal water systems	39

COURTS:

Payment of fee by defendant for jury trial in circuit court is constitutional	42
---	----

— D —**DOCKET FEES:**

Circuit Clerk may refuse to accept for filing any new or post-judgment action, if the pre-filing fee is not paid	15
Workman's compensation proceedings are not subject to library tax	29
State Departments are not required to prepay docketing fees, nor prepay post judgment fees	34

DRIVER LICENSES:

Traffic convictions under Youthful Offender Act may be used to revoke driver licenses	27
---	----

— E —**ELECTIONS:**

The state may not reimburse counties for expenses incurred in the utilization of voting machines	25
--	----

EMPLOYERS AND EMPLOYEES:

Maximum age limit of Minimum Standards Act is invalid	56
---	----

EXEMPTIONS:

Title 51, Section 2(f), as amended, Code of Alabama 1940, grants exemptions from ad valorem taxation to the persons named therein and the exemption applies to the fair and reasonable market value of the property owned by those qualifying for the exemptions	48
Monroe County Farm Bureau, Inc., is not exempt from ad valorem taxes on property rented to the Farm Bureau Service Center of Monroe County, Inc. The use to which property is put is the factor to consider when determining tax exempt status, not who owns the property. If one portion of tax exempt property loses its tax exempt status, the entire property loses its status	32

EXPENSES:

Legislature may decrease expense allowance to district judge	41
--	----

— F —**FARM BUREAU:**

Monroe County Farm Bureau, Inc., is not exempt from ad valorem taxes on property rented to the Farm Bureau Service Center of Monroe County, Inc. The use to which property is put is the factor to consider when determining tax exempt status, not who owns the property. If one portion of tax exempt property loses its tax exempt status, the entire property loses its status	32
--	----

FEES:

Payment of fee by defendant for jury trial in circuit court is constitutional	42
---	----

FILING TAX:

Future advance mortgages securing revolving loan agreements must be recorded by using one of the alternative methods indicated by Title 51, Section 619(b), Code of Alabama, Recompiled 1958 (Pocket Part), as amended by Act No. 671, Special Session 1977, and opinions of this office implementing said statutes	44
Deed tax is due on the entire consideration involved in a foreclosure deed wherein the purchaser at the foreclosure sale is someone other than the mortgagee	45

FINANCE, DEPARTMENT OF:

The feeding of county prisoners is a necessary function and funds must be allocated to assure same, notwithstanding the legislative appropriation limit	30
The State may not reimburse counties for expenses incurred in the utilization of voting machines	25

FORECLOSURE DEEDS:

Deed tax is due on the entire consideration involved in a foreclosure deed wherein the purchaser at the foreclosure sale is someone other than the mortgagee	45
--	----

FUNDS:

Hospital Board has authority to expend money for the purposes of recruiting a physician or physicians to staff the County Hospital	50
Municipalities may, in current year, reappropriate funds left from prior years	43
The feeding of county prisoners is a necessary function and funds must be allocated to assure same, notwithstanding the legislative appropriation limit	30

— H —

HOSPITALS:

- Hospital Board has authority to expend money for the purposes of recruiting a physician or physicians to staff the County Hospital 51

— I —

INSANE PERSON:

- Title 51, Section 2(f), as amended, Code of Alabama 1940, grants exemption from ad valorem taxation to the persons named therein and the exemption applies to the fair and reasonable market value of the property owned by those qualifying for the exemptions 48

— J —

JUDGEMENTS:

- Payment of attorney's fees in civil rights judgment discussed 52

JUDGES:

- Legislature may decrease expense allowance to district judge 41

JUDGES OF PROBATE:

- Future advance mortgages securing revolving loan agreements must be recorded by using one of the alternative methods indicated by Title 51, Section 619(b), Code of Alabama, Recompiled 1958 (Pocket Part), as amended by Act No. 671, Special Session 1977, and opinions of this office implementing said statutes 44
- Deed tax is due on the entire consideration involved in a foreclosure deed wherein the purchaser at the foreclosure sale is someone other than the mortgagee 45

JUDICIAL ARTICLE:

- Circuit Clerk may refuse to accept for filing any new or post-judgment action, if the pre-filing fee is not paid 15
- Supernumerary probate judge may not resign and elect to come under Judicial Retirement Act 16
- Workman's compensation proceedings are not subject to library tax 29
- Legislature may decrease expense allowance to district judge 41

JUDICIAL RETIREMENT FUND:

- County retirement contributions must be transferred to Judicial Retirement Fund when district judge becomes member 20

— L —

LEGISLATORS:

- Constitutional privilege of legislators of immunity from
arrest for traffic violations 18

LEGISLATURE:

- The feeding of county prisoners is a necessary function
and funds must be allocated to assure same, notwith-
standing the legislative appropriation limit 30

LIABILITY:

- Payment of attorney's fees in civil rights judgements dis-
cussed 52

— M —

MENTAL HEALTH BOARD:

- Payment of attorney's fees in civil rights judgments dis-
cussed 52

MENTAL INSTITUTIONS:

- An insane prisoner confined to a mental institution may
receive credit for the time of his confinement against
the sentence. Once a person confined to a mental in-
stitution recovers, he is to be returned to committing
officers, and he can then be paroled only by the Board
of Pardons and Paroles 52

MERIT SYSTEMS:

- Maximum age limit of Minimum Standards Act is invalid 56

MILITARY DEPARTMENT:

- All employees of private business or industry called to
military active duty are entitled to leave of absence
from their civilian occupations without loss of pay,
time, efficiency rating, annual or vacation leave 49

MORTGAGES:

- Judge of Probate may not destroy public records without
complying with Title 55, Section 289(b) 17

MOTOR VEHICLES:

- Article III (antitheft Laws) of the Alabama Uniform Cer-
tificate of Title and Antitheft Act applies to auto-
mobiles and automobile engines manufactured prior to
1975 as well as those manufactured subsequent to that
date 54

MUNICIPALITIES:

- Cities are responsible for expenses incurred by insolvent
municipal prisoners housed in county jails 23

Municipality may, in current year, reappropriate funds left from prior years	43
In establishing a countywide water system, a county commission may contribute to the cost and expense of up-grading and increasing the capacity of existing Municipal water system	39

— N —

NATIONAL GUARD:

All employees of private business or industry called to military active duty are entitled to leave of absence from their civilian occupations without loss of pay, time, efficiency rating, annual or vacation leave	49
--	----

NEWSPAPERS:

County Commission must pay for cost of newspapers pursuant to Title 7, Section 724, Code of Alabama 1940 (Recompiled 1958), as amended	47
--	----

NURSING BOARD:

Release of names of licensees whose licenses have been revoked is permitted	29
---	----

— O —

OPEN-END MORTGAGES:

Future advance mortgages securing revolving loan agreements must be recorded by using one of the alternative methods indicated by Title 51, Section 619(b), Code of Alabama, Recompiled 1958 (Pocket Part), as amended by Act No. 671, Special Session 1977, and opinions of this office implementing said statutes	44
---	----

— P —

PARDONS AND PAROLES, BOARD OF

An insane prisoner confined to a mental institution may receive credit for the time of his confinement against the sentence. Once a person confined to a mental institution recovers, he is to be returned to committing officers, and he can then be paroled only by the Board of Pardons and Paroles	52
--	----

PHYSICIANS:

Hospital Board has authority to expend money for the purposes of recruiting a physician or physicians to staff the County Hospital	50
--	----

POST JUDGEMENT FEES:

State Departments are not required to prepay docketing fees, nor prepay post judgment fees	35
--	----

PRISONS AND PRISONERS:

Cities are responsible for expenses incurred by insolvent municipal prisoners housed in county jails	23
An insane prisoner confined to a mental institution may receive credit for the time of his confinement against the sentence. Once a person confined to a mental institution recovers, he is to be returned to committing officers, and he can then be paroled only by the Board of Pardons and Paroles	52
The feeding of county prisoners is a necessary function and funds must be allocated to assure same, notwithstanding the legislative appropriation limit	30

PUBLIC RECORDS:

Release of names of nursing bd. licensees whose licenses have been revoked is permitted	28
---	----

— R —**RECORDS:**

Judge of Probate may not destroy public records without complying with Title 55, Section 289(b)	17
---	----

RETIREMENT SYSTEMS:

County retirement contributions must be transferred to Judicial Retirement Fund when district judge becomes member	20
--	----

— S —**SHERIFF:**

State departments are not required to prepay docketing fees, nor prepay post judgement fees	35
---	----

SUPERNUMERARY STATUS:

Supernumerary probate judge may not resign and elect to come under Judicial Retirement Act	16
Clerks and registers who did not give required notice are automatically covered by supernumerary fund	21

— T —**TEACHERS:**

Teacher tenure at Junior Colleges and Trade Schools is transferrable	46
--	----

TENURE:

Teacher tenure at Junior Colleges and Trade Schools is transferrable	46
--	----

TITLE ACT:

Article III (Antitheft Laws) of the Alabama Uniform Certificate of Title and Antitheft Act applies to automobiles and automobile engines manufactured prior to 1975 as well as to those manufactured subsequent to that date	54
--	----

TRAFFIC:

Traffic convictions under Youthful Offender Act may be used to revoke driver licenses	27
---	----

— U —**UTILITY BOARDS:**

In establishing a countywide water system, a county commission may contribute to the cost and expense of upgrading and increasing the capacity of existing Municipal water systems	39
--	----

— W —**WORKMAN'S COMPENSATION:**

Workman's compensation proceedings are not subject to library tax	29
---	----

— Y —**YOUTHFUL OFFENDER ACT:**

Traffic convictions under Youthful Offender Act may be used to revoke driver licenses	27
---	----

April 6, 1977

Honorable D. L. Cockrell
Register
225 Court House
Birmingham, AL 35203

Judicial Article — Docket Fees

Rule that docket fee must be paid at time of filing of complaint applicable to filings initiating post-judgment actions not found in 16-113(c) of Judicial Article.

Opinion by Assistant Attorney General Knight

Dear Mr. Cockrell:

I am replying to your request to the Attorney General concerning the payment of fees for certain post-judgment actions not specified in Section 16-113(c) of the Judicial Article Implementation Act.

You set out the following information: Section 16-110 of the Judicial Article states that docket fees in civil cases are to be collected at the time of filing. Section 16-113(c) provides for the collection of a fee at the initiation of the post-judgment proceedings of attachment, garnishment, and execution. Rule 7 of the Alabama Rules of Judicial Administration reads:

Any filing for which there is no express cost under the consolidated fee structure shall be treated as an original filing for cost purposes.

You then asked the following question:

In view of the foregoing, can I refuse to accept for filing any new or post-judgment action if the pre-filing fee is not paid? Of course, hardship cases would be excluded.

It is the opinion of this office that your question must be answered in the affirmative.

Rule 7, set out above, was designed to say that modifications, rule nisi, and so forth, can be treated as original filings. Section 16-110(a) requires the docket fee to be paid at the time the complaint is filed. Using this as a basis, along with Section 16-113(c), which requires that the fee be paid at the start of those post-judgment actions stated therein, the same requirement would be applicable to the original filing which initiates a post-judgment action not set out in Section 16-113(c). Therefore, Article and Rule 7, may refuse to accept for filing any new or post-judgment action, if the pre-filing fee is not paid. Hardship cases would be excluded from this conclusion.

If our office can be of further assistance to you, please do not hesitate to let us know.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

April 7, 1977

Honorable T. R. Ward
Supernumerary Probate Judge
125 North Court Street
Abbeville, Alabama 36310

Supernumerary probate judge may not resign and elect to come under Judicial Retirement Act; widow of supernumerary probate judge may not receive benefits under Section 3-106(b) of Act No. 1205, Regular Session, 1975.

Opinion by Assistant Attorney General Weidler

Dear Judge Ward:

You requested an opinion from the Attorney General concerning the following questions:

1. "May a supernumerary probate judge resign and elect to receive retirement benefits from the judicial retirement fund established by the Judicial Retirement Act (Act No. 1163, Regular Session 1973), and

2. Would your widow be eligible to receive benefits under Section 3-106(b) of Act No. 1205, Regular Session 1975?"

Section 3-101 of Act No. 1205 explicitly says that only probate judges holding office when Amendment 328 to the Alabama Constitution was adopted, on December 18, 1973, can elect to come under the Judicial Retirement Act in accordance with the provisions of Article 3 of Act No. 1205. Since you were a supernumerary probate judge in December, 1973, you may not resign your supernumerary status and elect to be retired pursuant to Article 3 of Act No. 1205.

Since you may not elect to become retired pursuant to Article 3 of Act No. 1205, your wife will not be eligible to receive widows benefits under Section 3-106(b) of Act No. 1205 after your death.

Sincerely yours,
WILLIAM J. BAXLEY
Attorney General

April 8, 1977

Hon. Bobby Day
Judge of Probate
Morgan County Courthouse
Decatur, Alabama

MORTGAGES — JUDGES OF PROBATE — RECORDS
Judge of Probate may not destroy public records without complying with Title 55, Section 289(6), et seq. and should not destroy chattel mortgages which still constitute valid liens

Opinion by Assistant Attorney General Loeb

Dear Judge Day

Reference is made to your letter of March 17, 1977, in which you requested the opinion of this office as follows:

“(1) Whether or not this office, under Title 7, Section 20, can destroy chattel (or personal property) mortgage records filed prior to January 1, 1967, when the Uniform Commercial Code went into effect?

(2) If your answer to the above is in the affirmative, may the indexes to these records be destroyed also?”

It is my opinion that it would not be proper for you to destroy any public records without first complying with the provisions of Title 55, Section 289(6), et seq., Code of Alabama, Recompiled 1958 (see attached copy of opinion of this office dated September 12, 1973, to Hon. O. H. Florence).

It is also my feeling that Title 7, Section 20, Code of Alabama, Recompiled 1958, would not necessarily give you the authority to destroy chattel mortgage records. This provision is a statute of limitations for ten(10) years against bringing actions, and would not begin to run until the final date of maturity shown in the mortgage (or possibly date of default of which you would have no knowledge). You might, therefore, be destroying records which are still valid liens, or under which rights of action may still accrue. Only after the twenty(20) year period of prescription has run, can you be certain that such records are of no further value or efficacy. If your problem is one of space limitation, you might consider moving these records to the basement or to some other storage space to which there is ready access.

Yours very truly,
WILLIAM J. BAXLEY
Attorney General

April 28, 1977

Honorable Jack B. Venable
House of Representatives
State Capitol
Montgomery, Alabama 36130

Legislators — Immunity from Arrest

Constitutional privilege of legislators of immunity from arrest only applies to civil arrests and does not provide immunity from arrest for traffic violations.

Opinion by Attorney General Baxley

Dear Mr. Venable:

I have your request for an opinion of this office dated April 15, 1977. In your letter you request an opinion as to whether or not a state legislator traveling to or from a legislative session can be arrested for a traffic violation. The provision of our State Constitution in question, Section 56, reads as follows:

Members of the Legislature shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses and in going to and returning from the same . . .

A similar provision is found in Title 32, Section 11(1), Code of Alabama 1940, as amended.

This constitutional provision and the similar statutory provision provide immunity for legislators from arrest only in cases involving civil arrests and have no application whatsoever in any case involving any arrest for a criminal offense.

The landmark case on the subject is the case of **Williamson v. United States**, 207 U.S. 245 (1907). That case involved an interpretation of Article I, Section 6 of the United States Constitution which provides an immunity from arrest for U.S. Congressmen which is virtually word for word identical to that provided under the Alabama Constitution for Alabama legislators.

The United States Supreme Court held, after searching back deeply into the legal precedent surrounding the privilege of legislators from arrest, that the reason Article I, Section 6 was included in the Constitution was merely to provide legislators immunity from civil arrests. It held that when the Constitution said a congressman could be arrested for a "breach of the peace" it was intended that a congressman could be arrested for **any** criminal offense of whatever nature. The Supreme Court specifically rejected the argument that the words "breach of the

peace" meant only those types of offenses which involved violence or public disturbances.

The decision of the Supreme Court in **Williamson** was later reaffirmed by the Supreme Court in the case of **Long v. Ansell**, 293 U.S. 76 (1934).

This same conclusion has been almost uniformly reached in interpreting similar provisions found in state constitutions across the country. The authorities hold that immunity from arrest provisions in state constitutions similar to those found in the federal constitution and in the Alabama Constitution merely provide legislators an immunity from civil arrests and provide no immunity whatsoever from arrests for any criminal charge, see **C.J.S.**, States, Section 35; **Ex Parte Emmett**, 120 Cal. App. 349, 7 P. 2d 1096 (1932); **Commonwealth ex rel. Bullard v. Keeper of Jail**, 4 W.N.C. 540 (Pa. 1877); **Swope v. Commonwealth**, 385 S.W. 2d 57 (Ky. 1964); **In Re Wilkowski**, 270 Mich. 687, 259 N.S. 658 (1935). See also **Long v. Ansell**, 63 App. D.C. 68, 69 F. 2d 386 (1934).

In a case very similar to the question posed in your letter, the California Supreme Court has ruled that a legislator was not immune from arrest for violation of a municipal traffic control ordinance. Construing a legislative immunity from arrest provision in the California Constitution virtually identical to the Alabama immunity provision, the California Supreme Court in **Ex Parte Emmett, supra**, observed that the purpose of such provisions is only to provide legislators with immunity from arrests in civil cases and held that a California legislator had no right to refuse to submit to an arrest for violation of a traffic control ordinance.

In reality, immunity from arrest provisions for legislators are now virtually obsolete in Alabama. As in most jurisdictions, the old remedy of civil arrests has now been abolished in this state. The last statute specifically authorizing civil arrests in Alabama, Title 7, Section 330, was superseded in 1973 when the Alabama Rules of Civil Procedure were adopted by the Supreme Court.

Therefore, in answer to the question posed in your letter, it is my opinion that a legislator may be lawfully arrested for a traffic violation while traveling to or from a legislative session. The constitution and statutory legislative immunity provisions confer no right on any legislator to place himself or herself above the law of this state.

On a personal note, I must add that I am well aware that this opinion probably means that we will not receive our supplemental appropriation that is now pending before the Legislature even though failure to receive this appropriation will result in the complete closing of the doors to the Attorney General's Office on the first of June.

I do feel that this office will continue to receive fair and equal treatment from you and your colleagues in the House of Representa-

tives. Of that I have no doubt. There are others, however, who may vent their anger at my decision in this opinion by attempting to cripple the operation of an entire agency of government. Be that as it may, I have never ducked taking a stand on a politically sensitive issue, however, and I do not intend to begin now.

Sincerely,
WILLIAM J. BAXLEY
Attorney General

April 28, 1977

Honorable David G. Bronner
Secretary-Treasurer
Retirement Systems of Alabama
State Capitol
Montgomery, Alabama 36130

Retirement Systems — Judicial Retirement Fund

Antecedent retirement contributions paid into county retirement plan by district judge while serving as county judge must be transferred to Judicial Retirement Fund when district judge becomes member of Judicial Retirement Fund only if district judge wants time served as county judge to apply toward eligibility of spouse for benefits under §4-123 of Act No. 1205, 1975 Regular Session.

Opinion by Assistant Attorney General Weidler

Dear Dr. Bronner:

You recently asked the Attorney General to render an opinion concerning the following question:

Does Act No. 1205, Acts of Alabama, 1975 Regular Session, require that antecedent retirement contributions paid into a local retirement plan by a district judge who was formerly a county judge be transferred from the local retirement plan into the Judicial Retirement Fund when the district judge comes under the provisions of the Judicial Retirement Act as a matter of law pursuant to §4-117 of Act No. 1205?

Act No. 1205 does not require that the retirement contributions paid into a county retirement plan by a former county judge who was elected to a district judgeship be transferred to the Judicial Retirement Fund. However, §4-123 of Act No. 1205 provides that certain benefits shall be paid to the spouse of a deceased district judge who has paid into a county or state retirement system for a minimum of five years.

In my opinion the legislature intended that a district judge who wishes to have his time served as a county judge apply toward eligibility of his spouse for benefits under §4-123 must transfer the retirement contributions he paid to a county retirement system to the Judicial Retirement Fund.

Sincerely yours,
WILLIAM J. BAXLEY
Attorney General

April 29, 1977

Mr. Fred Zeigler
State Comptroller
Finance Department
Capitol
Montgomery, Alabama 36130

Circuit Clerks and Registers — Supernumerary Status
(1) Clerks and registers who did not give required notice are automatically covered by supernumerary fund; (2) comptroller may not pay employer's retirement contributions for clerks and registers, and (3) comptroller can pay employer's contributions to local retirement systems for certain court personnel effective January 16, 1977.

Opinion by Assistant Attorney General Weidler

Dear Mr. Zeigler:

You recently requested that the Attorney General render an opinion concerning the following questions about Act No. 1205, Acts of Alabama, Regular Session 1975:

1. Are those clerks and registers who did not notify the administrative director of courts in writing to the contrary thirty (30) days subsequent to the effective date of this article automatically covered by the supernumerary fund effective January 16, 1977?
2. Some of the clerks and registers who have not elected to come under Section 7-117 were members of local retirement plans whose funds were administrated by the State Employees Retirement System. These employees, on January 16, 1977, became members of the State Employees Retirement System. There is another group of clerks and registers who have elected not to come under the super-

numenary plan as provided in Section 7-117 but have elected to continue as members of a local retirement system whose funds are not administered by the State Employees Retirement System. My question concerning this group of employees is: Can the comptroller pay employers contributions to locally administered retirement plans covering clerks and registers who have elected to remain without the supernumerary program?

3. I understand that there are a few employees who were assumed by the state on January 16, 1977, such as magistrates and others, who have elected to retain retirement systems. I find no provisions in Act No. 1205 covering payments to be made by the comptroller to local systems for this class of persons. There is language in Section 7-106 that provides for the comptroller to make payments to local retirement systems beginning October 1, 1977. My third question is: Can the state comptroller make payments to such local plans of this class of personnel beginning on January 16, 1977?

These questions will be answered seriatim.

Sections 7-117 and 18-103(d) of Act No. 1205 provide that any clerk or register shall come under the supernumerary fund unless he notified the administrative director of courts in writing to the contrary within thirty days subsequent to October 1, 1976. Thus in my opinion any clerk or register who did not give the required notice is automatically covered by the supernumerary fund as of January 16, 1977. And, of course, only clerks and registers who were holding office during October, 1976, could have elected not to be covered by the supernumerary fund.

Your second question contains two errors. I do not think that clerks and registers who were members of local retirement systems administered by the Employees' Retirement System can become members of the Employees' Retirement System upon their being paid by the state. Nor can clerks and registers who were members of local retirement systems not administered by the Employees' Retirement System elect to continue as members of these local retirement systems.

There are no provisions in Act No. 1205 which permit clerks and registers to become members of the Employees' Retirement System or retain their local retirement plan membership after they begin receiving their pay from the state. For the state to make retirement contributions for clerks and registers who are paid by the state would be a violation of §98 of the Alabama Constitution, which says, "The legislature shall not retire any officer on pay, or part pay, or make any grant to such retiring officer." It was undoubtedly in recognition of this section of the constitution that the legislature established the

clerk's and register's supernumerary fund under §7-115 of Act No. 1205.

You were apparently under the misapprehension that clerks and registers are "eligible employees" under §7-106 of Act No. 1205 who can become members of the Employees' Retirement System or retain membership in a local retirement system. This misapprehension may have been partially caused by my opinion to you dated March 24, 1977. This opinion modifies my opinion to you of March 24, 1977, to the extent that that opinion is not to be construed to be applicable to employer's retirement contributions for clerks and registers.

Thus, in my opinion, the comptroller may not pay employer contributions for clerks and registers to either the Employees' Retirement System or to locally administered retirement plans. This portion of this opinion overrules an opinion to Mr. Jimmy V. Lindsey, Clerk, Circuit Court of DeKalb County, dated March 9, 1977.

As for your final question, I believe that since the legislature provided that certain court employees, such as magistrates, are to be paid by the state effective January 16, 1977, then the state can also begin paying the employer's retirement contributions for these employees on that date. Thus, in my opinion the comptroller can make payments to local retirement plans for this class of personnel effective on January 16, 1977.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

April 29, 1977

Honorable George Allen Desmond
Chairman
Bibb County Commission
123 Courthouse Square West
Centreville, Alabama 35042

Prisons and Prisoners — Counties

Municipalities are responsible for expenses incurred by insolvent municipal prisoners housed in county jails. And the county may require a municipality using the county jail to agree by contract to pay expenses incurred by these prisoners; failing in which, the county may refuse to accept the prisoners.

Opinion by Assistant Attorney General Eric A. Bowen

Dear Mr. Desmond:

Reference is made to your letter of March 22, 1977 wherein you request an opinion of this office relative to the following questions:

1. Who is responsible for payment of medical expenses incurred by a prisoner arrested by a municipality and held in the county jail?
2. Does the county have the authority to refuse city prisoners?
3. Can the county require cities using the county jail to agree by signed contract to pay any expenses incurred by their prisoners?

Before proceeding to these questions, I must assume that the prisoners, referred to in your letter, are not those prisoners over which the municipality and the county have concurrent jurisdiction, but, rather, include only those prisoners who are, in the strict sense, municipal prisoners. Secondly, I must assume that the expenses incurred are necessary and that the prisoner is unable to provide these for himself.

Assuming that these conditions are met, the municipality should be charged with necessary medical treatment given to insolvent municipal prisoners. The county would not ordinarily have jurisdiction over these prisoners, since they are charged with violating municipal ordinances, and therefore, should not be charged with their maintenance. Title 37, Section 469 (1) 1973 cumulative pocket part, Code of Alabama 1940, recompiled 1958, gives the most insight into this question. This statute provides for removal of municipal prisoners to other jails, and reads in pertinent part as follows:

§469(1) . . . the maintenance and cost of removal of said prisoners shall be borne by the municipality requesting said removal.

Clearly, the legislature has expressed a desire to charge the municipality with the expenses incurred by their prisoners in other jails.

Secondly, the county officials could refuse prisoners charged with municipal offenses, unless the Circuit Judge of the county directs their removal to the county jail pursuant to Title 37, Section 469(1), 1973 cumulative pocket part, Code of Alabama 1940, recompiled 1958. This position is, of course, strengthened by the necessity to provide space for housing those individuals charged and/or convicted of offenses against the county and State of Alabama.

In any event, the aforementioned conclusions would not bar the contractual ability of the counties and municipalities of Alabama. Title 37, Section 471, Code of Alabama 1940, recompiled 1958, provides in pertinent part:

§471 (2317) MUNICIPALITIES AND COUNTIES MAY CONTRACT WITH RESPECT TO PUBLIC BUILDINGS — Municipalities and counties may contract with each other for the ownership or use and occupation of parts of city halls, city jails, county courthouses and county jails . . .

Under these circumstances, we conclude that the counties may also require cities using the county jail to agree by signed contract to pay the maintenance and necessary expenses incurred by their insolvent prisoners.

I hope this adequately answers your questions. If you have further need of this office, please do not hesitate to contact us.

Sincerely yours,
WILLIAM J. BAXLEY
Attorney General

May 2, 1977

Honorable Fred E. Zeigler
State Comptroller
State of Alabama
Department of Finance
Division of Control and Accounts
Montgomery, Alabama 36130

Department of Finance — Election — Counties
The State may not reimburse counties for expenses
incurred in the utilization of voting machines.

Opinion by Assistant Attorney General Robinson

Dear Sir:

In your recent letter, you requested a clarification of conflicting opinions dealing with reimbursement of counties by the State for expenses incurred in the utilization of voting machines. Title 17, Sections 427-432, Code of Alabama 1940, Recompiled 1958, provide for State reimbursement of counties for certain election expenses. Section 427, *supra*, delineates the expenses to be reimbursed, as follows:

“‘Expense’ defined.—As used in this chapter, the term ‘expenses’ shall include the following items, and **no other**: (a) The per diem and mileage provided by law for election officials. (b) The per diem provided by law for the register or other official acting in his stead for handling absentee ballots. (c) The costs of ballots, supplies and other materials required by law to be furnished to election officials. (In those

counties and municipalities where voting machines are used, such **voting machine shall be considered as ballots, supplies or materials are herein used.**) (d) The costs of absentee ballots, supplies and other materials required by law to be furnished to the official handling absentee ballots. (e) The cost of preparing and furnishing the lists of qualified electors to the election officials as required by law. (1955, page 406, Section 1, effective July 28, 1955.)" (Emphasis added)

Subsequent to the enactment of Title 17, Section 427, *supra*, this office opined that the State should reimburse counties for the cost of preparing voting machines, installing the ballot labels, and transportation of the machines to the various voting places. Quarterly Report of the Attorney General, Volume 114, page 24, dated January 21, 1964.

This opinion was based in large part on Title 17, Section 115(1), Code of Alabama 1940, Recompiled 1958. That section allows counties to pay all expenses necessary to the utilization of voting machines. It was therefore concluded in Volume 114, *supra*, that Title 17, Section 427, *supra*, merely prevented the State from reimbursing counties for the initial purchase of voting machines.

Subsequent to the rendering of the opinion found in Volume 114, *supra*, the Chief Attorney for the Legal Division of the State Finance Department wrote an intra-office memorandum dated February 3, 1964, which contradicted that opinion. Based on the February 3, 1964, memorandum, the State Comptroller has not been reimbursing any counties for any expenditures in connection with preparing and transporting voting machines. In my opinion, the State does not have legal authority to reimburse the counties for any expense incurred in the utilization of voting machines.

Title 17, Section 427, *supra*, is explicit to the effect that the State cannot reimburse counties for the purchase of voting machines. However, it is ambiguous on the question of reimbursement for expenses which are necessary to utilize voting machines. Title 17, Section 115(1), *supra*, was enacted approximately ten years prior to the enactment of Title 17, Section 427, *supra*. If the Legislature had intended for the State to reimburse counties for expenses incurred in utilizing voting machines, it could have easily included this in Title 17, Section 427, *supra*. However, this was not done and, instead, language specifically excluding voting machines as an item for which reimbursement is required was included. In addition, Title 17, Sections 186, 343, and 354, Code of Alabama 1940, Recompiled 1958, list a number of items which would seem to constitute the supplies and materials required by Title 17, Section 427, *supra*, to be furnished by election officials. The preparation and transportation of voting machines is not included in Title 17, Section 186, 343, 354, *supra*. The language, "'expenses' shall include the following items, and no other", contained in Title 17, Section 427, *supra*, further strengthens my conclusion that the utilization of voting

machines is not an expense covered in that section. Title 17, Section 115(1), *supra*, allows counties to pay for the utilization of voting machines but it does not authorize reimbursement by the State.

The opinion of this office found in Quarterly Report of Attorney General, Volume 114, page 24, is hereby overruled.

If I can be of any further assistance in this matter, please let me know.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

3 May 1977

Colonel E. C. Dothard, Director
Department of Public Safety
State of Alabama
Montgomery, Alabama 36130

Youthful Offender Act — Traffic — Drivers Licenses

Convictions of Traffic Offenses under the Youthful Offender Act may be used under the "point system" to revoke driver licenses. The Youthful Offender Act was specifically excepted from the recent Age of Majority Act (Act No. 77, Regular Session of Alabama Legislature 1975).

Age of Majority

Youthful Offender Act

Opinion by Assistant Attorney General Lett

Dear Colonel Dothard:

I have your request for an opinion from the office wherein you ask the following questions:

- "1. Are courts in Alabama under the Youthful Offender Act allowed to withhold information in traffic offenses or, for purposes of revocation of driver licenses under the point system, must these convictions be sent in by the courts to the Department of Public Safety?
2. Since the 1975 Legislature changed the age of majority from twenty-one to nineteen, does this mean that anyone who commits a traffic offense who is nineteen or over at the time he commits the offense is now considered an adult

and not eligible to be tried under the Youthful Offender Act?"

The answer to the first question must be in the negative. Courts may not withhold information on traffic offenses from the Department of Public Safety when the court proceedings are under the Youthful Offender Act while the defendant is a minor [Title 15, Section 266, **Code of Alabama 1940**, as Recompiled 1958 (1973 Cumulative Supplement)]. The reason for this answer lies in the provisions of Section 266(6) which states:

"No determination made under the provisions of this Chapter shall disqualify any youth for public office or public employment, or operate as a forfeiture of any right or privilege, or make ineligible to receive any license granted by public authority; and **such determination shall not be deemed a conviction of crime except that, if he is subsequently convicted of crime, the prior adjudication as youthful offender shall be considered.** The fingerprints and photographs and other records of a person adjudged a youthful offender shall not be open to public information, except that the court may, in its discretion, permit the inspection of papers or records." (emphasis added).

Where a "youthful offender" is later convicted of a crime as an adult his prior "youthful offender" determination "shall" be "considered". Youthful offender "determinations" regarding traffic offenses should be sent to the Department of Public Safety because the youth may later be convicted as an adult and such "determinations" then must be considered.

The answer to the second question must be in the negative. Section Four of Act Number 77 [Age of Majority Act], Regular Session of the Alabama Legislature of 1975, specifically states: "... nothing in this Act shall be deemed to repeal any provision of Act No. 335 [Youthful Offender Act]."

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

May 4, 1977

Honorable Francis Falkenburg
Member, House of Representatives
3001 Argle Road
Redmont Park
Birmingham, Alabama 36213

Nursing Board — Nurses — Public Records

Section 3(10) of Act No. 427, Regular Session 1975, permits release or publication of names of licensees whose licenses have been revoked.

Opinion by Assistant Attorney General Clark

Dear Representative Falkenburg:

This will acknowledge your request for an opinion as to whether Section 3(10) of Act No. 427, Regular Session 1975 prohibits the release of the names of licensees whose licenses have been revoked by the Board of Nursing.

Section 3(10) of the above Act provides that the Board is authorized to:

“(10) Keep a public record of all its proceedings. However, all proceedings dealing with charges calling for discipline of licensee or revocation of a license and personnel records shall be kept confidential and all participants in the proceedings shall conduct themselves so as to maintain the confidentiality of the proceeding and provided there shall be no confidentiality when the licensee requests that the matter be made public; further keep all personnel records confidential.”

It is the opinion of this office that the above Section only makes the proceedings confidential. The fact that a particular nurse's license has been revoked should be a matter of public record.

In addition, the Board under Section (3)11 of the same Act keeps a register of all licensees. This would provide the number of nurses licensed by that Board.

Yours very truly,
WILLIAM J. BAXLEY
Attorney General

May 5, 1977

Honorable Polly Conradi
Clerk of the Circuit Court
Tenth Judicial Circuit of Alabama
Birmingham, Alabama 35203

Docket Fees — Workman's Compensation — Judicial Article
Workman's compensation proceedings are not subject to library tax.

Opinion by Assistant Attorney General Knight

Dear Ms. Conradi:

Acknowledgement is given by the Attorney General to your request for an opinion from this office concerning the payment of county library tax in workmen's compensation cases.

The following question was posed in your request:

The charging of docket fees in workman's compensation cases was initiated by Act No. 1205 of the 1975 Legislative Session (Judicial Article Implementation Act), Section 16-112. In addition to the docket fee, the circuit clerk for the Tenth Judicial Circuit of Jefferson County charges a \$2.00 library tax in each workman's compensation case. Title 26, Section 278, Code of Alabama 1940, Recompiled 1958, states that workman's compensation proceedings shall not be deemed subject to state trial, library or other tax, state or local. Since Title 26, Section 278 was not expressly repealed by Act No. 1205, supra, should library tax be charged in workman's compensation proceedings?

It is the opinion of this office that your question is to be answered in the negative.

I can find no provision in Act No. 1205, supra, or in any other act or section of the Code of Alabama which would repeal the stipulation in Title 26, Section 278, supra.

Section 278 plainly states that workman's compensation proceedings shall not be subject to state or local library tax. Therefore, I conclude that this provision remains in effect and the clerks of the circuit courts of this state cannot charge library taxes in workman's compensation actions.

If our office can be of further assistance to you, please do not hesitate to let us know.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

June 21, 1977

Mr. Fred E. Zeigler
State Comptroller
State of Alabama
Department of Finance
State Capitol
Montgomery, AL 36130

Prisons & Prisoners — Dept. of Finance — Legislature — Funds

The feeding of county prisoners is a necessary function and funds must be allocated to assure same, notwithstanding the legislative appropriation limit.

Opinion by Chief Asst. Atty. Gen. Turner

Dear Mr. Zeigler:

I have your request for an opinion which is as follows:

"The Legislature passed Act No. 763, approved August 26, 1976, known as the General Fund Appropriation Bill. On page 23, item 16 provides for expenses for feeding prisoners in county jails in the amount of \$1,400,000. This appropriation appears to be a flat sum appropriation and did not contain the word 'estimated' as in previous years' appropriation bills. As a result of this terminology in the bill, the Budget Office has allotted the \$1,400,000 to be spent for the feeding of the prisoners in the county jails and the Comptroller has paid bills amounting to almost this amount. Within a few days, the total amount appropriated will be expended; and there seems to be no provision for the payment of feed bills for feeding the prisoners in county jails for the remainder of the fiscal year.

Since the feeding of the prisoners in the county jails is a necessary function of the State, is there any provision in the State Constitution or State laws whereby the Budget Office may allot monies in addition to the \$1,400,000 as authorized in this appropriation bill; and if so, is the comptroller authorized to expend such funds allotted by the Budget Officer for the feeding of the prisoners in county jails for the remainder of this fiscal year?

Your prompt consideration of this request will be appreciated as bills for feeding the prisoners in county jails are coming into the Treasurer's Office for payment everyday."

The answer to both of your questions is in the affirmative.

The following language is from the Special Supreme Court of Alabama in the case of **Abramson v. Hard**, 229 Ala. 2, 155 So. 590 (1934):

"There are, however, some of the necessary expenses of government which in their nature cannot be definitely determined with exactness in advance, as to which the Legislature has evidenced its intent, in our opinion, that they shall be paid in full, and to that end has set apart out of the general funds an amount which is to be used in so far as it is needed to

pay these expenses in full. Appropriations for the payment of such governmental expenses do not differ essentially from fixed salaries or other fixed expenses. They are to be paid in full, so far as needed for payment of the specific governmental expenses for which they have been appropriated. Such expenses as the expense for fuel, light, and water, for postage, post office box rent, for repairing and insuring state property, for public printing, for telephone and telegraph service, for publishing the Governor's proclamation, for premiums on official bonds, for distributing public documents, **for feeding prisoners**, for arrest of absconding felons, for removal of prisoners, and others that might be mentioned are of this character, and it seems clear that the appropriations made for such specific purposes were intended by the Legislature to be paid in full and the appropriations to their full extent here set apart and were intended to be used so far as needed to pay them in full." (Emphasis added)

This was a proration case but it serves to point out the character of several expenses including the feeding of prisoners. By their nature they cannot be "definitely determined with exactness in advance."

Also, considering and applying the principles of statutory interpretation, set forth in the above cited case and looking at the chaotic result which could occur with any other interpretation, it is my conclusion that the intent of the Legislature was to pay the full cost of feeding prisoners in county jails.

Accordingly, you are advised that the State Budget Officer may allot additional money, and the Comptroller may expend the allotted funds to maintain the feeding of prisoners in county jails for the remainder of this fiscal year.

Sincerely yours,
WILLIAM J. BAXLEY
Attorney General

June 22, 1977

Hon. James E. Witherington

Tax Assessor, Monroe County
Monroeville, AL 36460
Ad Valorem — Exemptions — Farm Bureau

1. Monroe County Farm Bureau, Inc., is not exempt from ad valorem taxes on property rented to the Farm Bureau Service Center of Monroe County, Inc.

2. The use to which property is put is the factor to consider when determining tax exempt status, not who owns the property.
3. If one portion of tax exempt property loses its tax exempt status, the entire property loses its status.

Opinion by Asst. Atty. Gen. Cohen

Dear Mr. Witherington:

Your request for an Attorney General's Opinion is as follows:

"Monroe County Farm Bureau, Inc., a non-profit organization, was incorporated in September, 1968. They acquired land in 1971 and erected an office building on this property. The land and buildings was assessed in January of 1972 for the 1973 tax year at an assessed valuation of \$400 on the land and \$3,000 on the building. This amounts to \$119 in ad valorem taxes. Now the members of the Monroe County Farm Bureau, Inc. wish to be exempt from advalorem taxes. The building is rented to the Farm Bureau Service Center of Monroe County, Inc., a corporation made up of the original incorporators of Monroe County Farm Bureau, Inc. and two additional members. The office is used by the Farm Bureau Insurance Company to promote the sale of insurance, tires, and batteries, and to adjust and handle customer claims. My question is, will the Monroe County Farm Bureau, Inc. be exempt from advalorem taxes?"

If the Monroe County Farm Bureau, Inc. were to be exempt from ad valorem taxes, the exemption would come under Title 51, Section 2(k), Code of Alabama, 1940, as amended, which reads in part:

"Section 2. The following property and persons shall be exempt from ad valorem taxation and none other:

(k) No license or taxation of any character, except franchise taxes provided by Section 229, of the Constitution of the State of Alabama, shall be collected or required to be paid to the state, or any county or municipality therein, by any . . . agricultural association."

From the face of the articles of incorporation for the Monroe County Farm Bureau, Inc., it could be presumed that the organization would qualify for a tax exemption as an agricultural association under Title 51, Section 2(k) of the Code of Alabama. However, in looking behind the articles of incorporation to the actual organization, it is clear that the Monroe County Farm Bureau, Inc. is not solely an agricultural association, has violated its tax exempt status by violating its own charter, and would not be exempt from paying ad valorem taxes.

The law in Alabama on this issue is clear, concrete and the subject of much discussion. (See 159 ALR 678, 54 ALR 3d 402)

Under Alabama law it is the use to which property is put that determines its taxation status. [*Anniston City Land Co. v. State*, 160 Ala. 253, 48 So. 659 ()]. As here, the fact that the Monroe County Farm Bureau, Inc. owns the property is not the determining factor, but the factor to look at is how the property is used by another organization to sell insurance, tires and batteries.

As one of the controlling cases on this issue, the *Anniston City Land* case also limits those who may claim tax exemption from ad valorem taxes by standing for the idea that where the property unit is not divisible, the total exemption is lost. This principle was upheld in *State v. Bridges*, 246 Ala. 486, 21 So. 2d 316, 159 ALR 678 (1945) and is clearly the law in Alabama today. The fact that a portion of the tax exempt property is used in violation of the exemption, a situation is created where the exemption is lost for the entire property. (See also Quarterly Report of the Attorney General. Vol. 24, page 246). Therefore, none of the property involved is exempt from taxation.

The Farm Bureau Service Center of Monroe County, Inc. is not a tax exempt organization and should not be allowed to claim such through the Monroe County Farm Bureau, Inc. If such were allowed, it would result in every farm bureau insurance company or service center circumventing ad valorem taxes by renting a building from a county farm bureau corporation.

Therefore the Monroe County Farm Bureau, Inc. as owners of non-tax exempt property, should be assessed its fair share of ad valorem taxes.

Sincerely,
WILLIAM J. BAXLEY
Attorney General

June 28, 1977

Honorable Charles A. Boswell
Commissioner of Revenue
202 Administrative Building
Montgomery, Alabama 36130

**COSTS & FEES — DOCKET FEES — POST JUDGMENT
FEES — SHERIFF**

Sections 16-109 through 16-113, Title 13A. Code of Alabama, 1940, 1975 Interim Supplement, the commonly referred to judicial article, must be read in pari materia with other constitutional and statutory provisions and opinions

of the Attorney General especially Section 93, Constitution of Alabama of 1901 and Section 72, Title 7, Code of Alabama, 1940, Recompiled 1958, and the opinion of the Chief Justice of the Supreme Court of Alabama to the end that the provisions will mesh into a workable whole so as not to place the Department of Revenue and other Departments issuing writs on administrative judgments and judicial decrees at an impasse vis-a-vis the Department and the local officials.

When the above statutes and opinions are read in *pari materia*, it is manifest that the State Departments are not required to prepay docketing fees, nor prepay post judgment fees and further the sheriff is permitted to collect his costs "off the top" of any monies he collects and further all local officials must bill the State for additional costs after the service has been rendered.

Opinion by Assistant Attorney General Burson.

Dear Mr. Boswell:

Your recent request for opinion established the fact that the Judicial Article when read literally and not in conjunction with other statutory provisions and provisions of the Constitution of Alabama of 1901 placed the Department of Revenue and other Departments similarly situated at an impasse insofar as the issuing of certain writs were concerned. You cited the fact that Article 16, Title 13A, Code of Alabama, 1940, 1975 Interim Supplement, required prepayment of docketing fees and also prepayment prior to issuance of post judgment writs. Further, the State and its agencies are prohibited by Section 93, Constitution of Alabama 1901 and Section 72, Title 7, Code of Alabama 1940, Recompiled 1958 from prepaying any costs. Further, the fact is stated that the sheriffs of the several counties have been removed from the fee business and seem to be of the opinion that they, the sheriffs, cannot collect their costs "off the top" when they levy on property as a result of executions and other writs issued by the various Departments of the State and thus on occasion refuse to act on such writs.

Your questions or "problems to be dealt with" are stated as follows:

"The initial problem that must be dealt with is that of how the sheriffs of the several counties are going to perform services for the various Departments of the State including the Revenue Department and be reimbursed after the performance of the services by the submission of cost bills; and, further, how the sheriffs can make their expenses 'off the top' on executions where they levy on property, seize property, store property in bonded warehouses, advertise property and sell property for state agencies.

* * * * *

"The **second problem** to be dealt with is how far reaching is the opinion quoted above (the opinion stating the position of the Chief Justice of Alabama) and how may it be used to encourage local officials to accept 'post judgment writs' under Section 16-113, *supra*, perform the acts required under the writs and bill the State Department of Revenue and other Departments as in the past. Apparently, the predocketing fees are not now a problem. The clerks of the several courts throughout the State have apparently accepted the fact that the State does not have to prepay to docket cases; however, the officials are still recalcitrant concerning 'post judgment fees' under Section 16-113(c), *supra*, and as stated previously have on occasion refused to act on writs sent to them by the State Department of Revenue."

Your questions or as you more aptly refer to them "problems to be dealt with" will be merged for purposes of answer. The initial premise in the answer must be the statement of the Chief Justice of Alabama as quoted in the request for opinion. The quote is not direct but is established in the memorandum from which the quote is made as the opinion of the Chief Justice. The premise thus established at the onset is that the prepay provisions in the Judicial Article do not apply to the State and the State will not be required to prepay court costs.

Thus, the opinion of the Chief Justice establishes the fact that the Department of Revenue and other Departments are not required to prepay docketing fees and prepay post judgment fees in accordance with the provisions of Sections 16-109 through 16-113, Title 13A, Code of Alabama 1940, 1975 Interim Supplement.

Section 93, Constitution of Alabama, 1901 provides as follows:

"The state shall not engage in works of internal improvement, nor lend money on its credit in aid of such; nor shall the state be interested in any private or corporate enterprise, or **lend money on its credit to any individual, association or corporation.**" Emphasis supplied.

A strict construction of the above constitutional provision makes it manifestly clear that the State cannot lend its credit and payment cannot be made except on a bill or invoice rendered after the service has been performed.

Section 72, Title 7, Code of Alabama 1940, Recompiled 1958, provides as follows:

"The state may sue in its own name, and is entitled to all remedies provided for the enforcement of rights between individuals, without giving bond or security or causing affidavit to be made, though the same may be required as if the action were between private citizens; the written directive

of the governor of the state to the attorney of record is sufficient authority for bringing the suit."

The annotations following Section 72, *supra*, emphasize that the State is not required to file security or bond in any action it brings. Thus, the State is not required to prepay as provided for in Sections 16-109 through 16-113, Title 13A, *supra*, in order to docket its suits nor to obtain service on its post judgment writs.

The lone remaining problem to be dealt with concerns the sheriff's collection of his costs "off the top" when he levies under writs issued by the Department of Revenue. An Opinion of the Attorney General, Volume 104, p. 36, September 18, 1961, addressed to Honorable Holt A. McDowell, Sheriff of Jefferson County appears to deal with the question comprehensively and appears to state that insofar as the Department of Revenue is concerned and other state departments who issue writs based on administrative judgments as well as judicial decrees, the sheriff is entitled to collect his costs before any other payments are made from the sum resulting from the actions of the sheriff.

In order that the full scope of the above opinion may be understood, it is necessary that extensive quotes be made therefrom. The request for opinion quoted in the answer is as follows:

"This office recently received a routine execution from Hon. Julian Swift, Clerk of the Circuit Court of Jefferson County, Alabama.

"Personal property belonging to the defendant in execution was levied on and sold at public auction for an amount less than the judgment and costs.

"Meanwhile, the Tax Collector had advised this office of a tax liability of the defendant, and pursuant to Title 51, Section 903, Code of Alabama, Recompiled 1958, the full proceeds of sale of personal property under execution were turned over to the Tax Collector.

"A literal interpretation of the above cited Code Section as followed in this and previous instances, has brought about a number of questions as to which I would like your opinion:

"1. Are Circuit Court costs deductible before remittance is made to the Tax Collector of monies recovered on amounts less than the judgment and costs?

"2. Are fees of the Sheriff deductible under the circumstances?

"4. If the property seized and sold is stored in a warehouse, are warehouse costs deductible?"

The answer rendered by the Attorney General bases the conclusions reached in the opinion on Section 903, Title 51, Code of Alabama, 1940, Recompiled 1958. The section provides as follows:

"When any sheriff or other officer shall sell any property under execution or other process, or under any decree, judgment, or order of any court, it shall be his duty to ascertain what taxes are a lien upon such property and upon a sale thereof, to first apply the proceeds of such sale to the payment of such taxes."

Based on the above code section in addition to certain sections of Title 7, Code of Alabama, 1940, *supra*, the opinion of the Attorney General answered the pertinent part of the inquiry as follows:

"Proper answer to the inquiries presented by you require a construction of this statute, particularly as to the meaning of the term 'proceeds' as there used, and whether certain items of cost and necessary expenses incident to the sale should be deducted before you distribute such proceeds. You advise that in the past you have delivered the full proceeds of such sale to the Tax Collector when a lien for taxes against such property existed which was greater than the amount collected by the execution.

"From my study and consideration of the statutes pertinent to your inquiry, I am of the opinion that the proceeds of sale referred to in Section 903, *supr*, are the 'net proceeds' of such sale remaining after the payment of the costs and necessary expenses directly related to the sale. I arrive at such conclusion by reason of the meaning and intent apparent to me from a study of the statutory law relating to executions and judgments, and particularly those statutes found in Title 7, Section 506-561, Code of Alabama 1940, Recompiled 1958. Although these statutes contain no specific provision as to the procedure to be followed in the particular circumstances set out by your letter, it is my opinion that consideration of same in their entirety clearly indicate that the proceeds of the sales there authorized to be distributed are the net proceeds remaining after payment of those costs and necessary expenses directly incident to the sale such as the fee for issuance of execution by the clerk, levy and sale by the sheriff and any necessary expenses of storage or preservation of property associated therewith. Those costs of the suit which resulted "in the judgment which are not incidental to the sale of such property are not properly deductible from the proceeds of such sale as they bear no relation thereto. Viewed in this light, I am of the opinion that, subject to the conditions stated, your

first inquiry is answered in the affirmative but only the costs accruing in the circuit court which are incidental to such sale should be deducted from the proceeds of the sale prior to the remittance of same to the Tax Collector. As regards the fees of the sheriff in this proceeding, I would point out that, in my opinion, such fees constitute a portion of the costs of the proceeding and, hence, those fees of the sheriff relating to the sale should be deducted along with other costs prior to remitting such proceeds to the Tax Collector. See in this regard *Barron, Administrator v. Tart*, 18 Ala. 668. See also *Quarterly Report of Attorney General*, Vol. 23, page 250. Accordingly, your second inquiry is likewise answered in the affirmative."

The opinion likewise held that if the property seized and sold by the sheriff had to be stored for a period prior to the sale, the costs of storage of the property would be a necessary expense incidental to the levy on and sale of the property and the costs would come "off the top" prior to the payment of the balance to the Tax Collector.

Thus, under prior authority, including statutory provisions and an opinion of the Attorney General, the sheriffs may collect their costs on execution of writs issued by the Department of Revenue and other state departments from the proceeds of the sale.

In summary it must be concluded that the provision of the commonly referred to Judicial Article in Title 13A, Code, *supra*, must be read in *pari matria* with other statutory provisions, constitutional provisions and opinions of the Attorney General and last but not least the opinion by the Chief Justice of the Alabama Supreme Court if the provisions are to mesh into a workable whole so as not to place the Department of Revenue and other departments issuing writs or administrative judgments and judicial decrees at an impasse vis-a-vis the departments and the local officials. When read in *pari materia*, it is manifest that the State Departments are not required to prepay docketing fees, nor prepay post judgment fees and further the sheriff is permitted to collect his costs "off the top" of any monies he collects on State writs and further all local officials must bill the State for additional costs after the service has been rendered.

Yours sincerely,
WILLIAM J. BAXLEY
Attorney General

June 28, 1977

Honorable Bruce Gargis
Chairman
Colbert County Commission
Tuscumbia, Alabama 35674

Counties — Municipalities — Utility Bonds

In establishing a countywide water system, a county commission may contribute to the cost and expense of upgrading and increasing the capacity of existing Municipal water systems.

Opinion by Assistant Attorney General Robinson

Dear Sir:

I have before me two letters addressed to this office from you which are dated June 9, 1977, and June 13, 1977. In essence, the letters state that the Colbert County Commission intends to establish a countywide water system to provide water to rural residents and to County Schools. In order to accomplish this task it will be necessary to tie into existing municipal water systems located within the county. In order to supply the water needed for a countywide water system it will be necessary to enlarge and expand the existing municipal water systems. Your question is whether the Colbert County Commission may legally contribute or donate funds from the county general fund to these municipal water systems so that they might enlarge and expand their capacity. In my opinion, the contributions or donations that you propose would constitute legal expenditures by the Colbert County Commission.

This office has written two opinions which addressed questions concerning the legality of expenditures by counties for the establishment of countywide water systems and for the expense incurred in tying the systems into existing municipal systems. See an opinion addressed to Mr. Marshall Prickett, Calhoun County Commission, dated May 31, 1976, and an opinion addressed to the Honorable Fred H. Davis, Judge of Probate, Bibb County, dated October 20, 1971, copies of which I have attached for your convenience. Suffice it to say that such expenditures are legal. In my opinion, expenditures for the enlargement and expansion of existing municipal water systems would be necessary and proper expenses incurred in establishing a countywide water system. However, such expenditures in the form of contributions or donations must be directly related to the **extra** cost and expense that municipal water systems incur because of the expansion of their systems **due to the increase in demand caused by the proposed countywide water system**. Such expenditures should not take the form of general appropriations to upgrade municipal water systems where such upgrading would have no reasonable relationship to the increase in demand caused by the proposed countywide water system.

If this office may be of any further assistance to you regarding this matter, please do not hesitate to call on us.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

June 30, 1977

Honorable Horace H. Nation, III

District Judge

District Court

P.O. Box 1442

Jasper, AL 35501

Judicial Article — Judges — Expenses

Legislature may decrease expense allowance to district judge.

Opinion by Assistant Attorney General Knight

Dear Judge Nation:

The Attorney General received your request for an opinion from this office as to whether it is constitutional under Section 150 and Amendment 92 of the Constitution of Alabama 1901 for the legislature to adopt an act terminating the expense allowance of the district judge of Walker County prior to the expiration of their terms of office.

Your question is to be answered in the affirmative.

First, let me call your attention to the fact that Section 150 of the Constitution has been amended so that it no longer concerns compensation paid to judges.

However, Section 68 and Amendment 92 of the Constitution of Alabama 1901, in essence, state that the legislature shall have no power and shall not grant to the state, a county or a municipality the power to increase or decrease the salary, fees, or other compensation of any officer of the state, county or municipality during the term of office for which the officer has been elected or appointed.

This office has concluded in several prior opinions that flat or lump sum expense allowances do not come within the prohibitions of Section 68 and Amendment 92 of the Constitution. In an opinion of this office to the Honorable Sim L. Howell of Decatur, dated October 13, 1955, it was ruled that the prohibitions of Section 68 and Amendment 92 did not apply to lump sum expense account allowances to circuit judges. It has also been ruled that expense allowances of sheriffs, circuit solicitors and municipal officers are not included as compensation under the above section and amendment. See Quarterly Reports of the Attorney General, vol. 81, p. 43; vol. 113, p. 27; and vol. 121, p. 10

A discussion on flat expense allowances is found in an opinion at Quarterly Report of the Attorney General, vol. 113, p. 27, in which it was concluded that an expense allowance for a circuit solicitor in a certain circuit was valid, as it did not constitute an increase in the compensation of the officer for the term for which he was appointed. The opinion went on to say that a flat expense allowance, if based

on reimbursement to the officer for expenses incurred by him in the performance of his duties, and having a reasonable and substantially accurate relationship to the actual expenses incurred, is not considered an increase in compensation and may be given to the officer during his term of office.

This office is not in a position to determine if the \$400.00 expense allowance bears a substantial and accurate relationship to the expenses incurred by the district judge. However, if the legislature determined it should give this amount for an expense allowance, it may be concluded that the relationship is present. This being so, it cannot be considered to come within the prohibitions of Section 68 and Amendment 92. Therefore, the legislature may also terminate the expense allowance without it constituting an decrease in the compensation of the judge during his term of office.

If our office can be of further assistance to you, please do not hesitate to let us know.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

May 30, 1977

Honorable Sylvester Anton
Circuit Clerk

P.O. Box 749
Jasper, AL 35501

Fees — Courts — Constitutionality

Payment of fee by defendant for jury trial in circuit court is constitutional.

Opinion by Assistant Attorney General Knight

Dear Mr. Anton:

This is to acknowledge the receipt of your request for an opinion from the Attorney General concerning jury fees.

You asked the following question:

Pleas advise me if . . . Title 13A, §16-111(d) is constitutional insofar as it requires the defendant to pay the \$10.00, if he is financially able, in order to be able to obtain a trial by jury in our Circuit Courts?

Your question is to be answered in the affirmative.

Title 13A, Section 16-111, Code of Alabama 1940, Recompiled 1958, Interim Supplement, concerns the docket fees paid in civil cases in circuit and district courts. Subsection (d) of Section 16-111 requires any party demanding a jury to pay an additional ten dollars (\$10) at the time he demands a jury trial.

Numerous state courts have concluded that prepayment of jury fees by the defendant cannot be regarded as an infringement on his right to a trial by jury where it is granted at his own option and is granted under the same conditions and the same results follow as when the fee is paid by the plaintiff. The courts have further ruled that jury fees may be imposed if they are reasonable. In keeping with these requirements, Title 13A, Section 16-111 states that the fee is to be paid by **any party** demanding a jury trial and the fee of only ten dollars (\$10) is certainly reasonable. Furthermore, provisions are made in Title 13A, Section 16-110(b), *supra*, for anyone who is not financially able to pay the fee.

Therefore, it is constitutional to require a defendant to pay a ten dollar jury fee if he is asked for a jury trial and it would not be a financial hardship for him to pay the fee.

If our office can be of further assistance to you, please do not hesitate to let us know.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

May 30, 1977

Honorable Grady M. Ellison
City Clerk & Treasurer
Fairfield, AL 35064

Municipalities — Funds

Municipality may, in current year, reappropriate funds left from prior years.

Opinion by Assistant Attorney General Knight.

Dear Mr. Ellison:

The Attorney General received your request for an opinion from this office as to whether Title 37, Section 434, Code of Alabama 1940, Recompiled 1958, prohibits the City of Fairfield from appropriating sums carried over from the previous fiscal years as part of the City's present year's legally authorized revenue.

Your question may be answered in the negative.

Title 37, Section 434, *supra*, authorizes the council to make annual appropriations of sums necessary for the expenditures of the city, not exceeding the aggregate of ten per cent of its estimated receipts, and states that the council shall not appropriate an amount in excess of its annual legally authorized revenue.

It is the opinion of this office that the above section or any other law of this state does not prohibit a municipality from appropriating funds carried over from previous fiscal years. This money was legally authorized revenue for the prior years and remains as such for the current year. It should be considered in the budget for the current fiscal year as additional revenue and reappropriated.

If our office can be of further assistance to you, please do not hesitate to let us know.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

June 9, 1977

Hon. Tom Burleson
Judge of Probate
Cullman County Courthouse
Cullman, Alabama

**FILING TAX — OPEN-END MORTGAGES — JUDGES
OF PROBATE**

Future advance mortgages securing revolving loan agreements must be recorded by using one of the alternative methods indicated by Title 51, Section 619(b), Code of Alabama, Recompiled 1958 (Pocket Part), as amended by Act No. 671, Special Session 1977, and opinions of this office implementing said statutes

Opinion by Assistant Attorney General Loeb

Dear Judge Burleson:

Reference is made to your letter of May 21, 1977, in which you request the opinion of this office as to whether you should continue to record certain mortgages in the same manner as you have in the past.

You attached to your letter a copy of the kind of mortgage in question. This instrument shows clearly that it is a future advance or open-end mortgage. It also indicates very strongly that it is the kind of open-end mortgage referred to in the previous opinion of this office (rendered to Judge Wiley J. Hickman, dated May 6, 1976, copy

attached) as "Open-End Credit Plan—Revolving Loan Agreement". If the facts substantiate that such mortgages are given to secure revolving loan agreements, then the procedure outlined in the aforementioned opinion may be followed. This procedure is different from that which you are presently following. It appears that you are placing the lender on an honor system by leaving it up to said lender to come into your office and make a notation of a future advance on the face of the instrument while paying the tax to you at that time. Under the procedure prescribed by the opinion of the Attorney General of May 6, 1976, a blanket bond must be filed with the Department of Revenue. As a condition of such bond, all future advances must be reported and taxes paid thereon during the month of September each year. This method would no doubt better insure that taxes on future advances will be paid to you, and this is probably what the Legislature had in mind when it passed Title 51, Section 619(b), as amended, Code of Alabama, Recompiled 1958 (Pocket Part).

An alternative method of recording open-end mortgages is authorized for certain lenders by the provisions of Act No. 671, Special Session 1977, approved May 23, 1977. Under this method, the bond is dispensed with, but the future advances must be reported and paid to you in September of each year.

In any event, you should discontinue the present procedure and follow one of the alternatives indicated by the statute and implementing opinions of this office.

Yours very truly,
WILLIAM J. BAXLEY
Attorney General

June 10, 1977

Hon. Hal Smith
Judge of Probate
Lee County Courthouse
Opelika, Alabama 36801

**FILING TAX — FORECLOSURE DEEDS — JUDGES OF
PROBATE**

Deed tax is due on the entire consideration involved in a foreclosure deed wherein the purchaser at the foreclosure sale is someone other than the mortgagee

Opinion by Assistant Attorney General Loeb

Dear Judge Smith:

Reference is made to your letter of June 3, 1977, in which you request the opinion of this office as to whether you should charge

deed tax for the privilege of recording a foreclosure deed when someone other than the mortgagee bought at the foreclosure sale

You stated that in the past your office "has been treating foreclosure deeds as taxable with respect to the consideration therefor unless the mortgagee buys in the property." I am of the opinion that this treatment is correct and you should continue to adhere to it.

In previous opinions of this office, it has been held that no deed tax is payable on foreclosure deed where mortgagee becomes the "purchaser" under power of sale contained in mortgage. This is because the deed is simply a written memorial of the foreclosure of the mortgage and the purchase at the sale by the mortgagee; but it conveys nothing and has effect upon the title. Biennial Report of Attorney General 1922-24, p. 230; Biennial Report of Attorney General 1928-30, p. 686; Quarterly Report of Attorney General, Vol. 129, p. 49.

The basis for these opinions is that title to the property passed to the mortgagee under the mortgage, and foreclosure merely cuts off the equity of redemption. The title thus vested in the mortgagee relates back to the execution of the mortgage, and a deed is not necessary to perfect title.

This reasoning does not hold true for a deed wherein a third party purchases at foreclosure sale. There it does become necessary for the mortgagee, who holds the legal title to convey such title to the person who has purchased the property at the sale. Therefore, you are correct in charging deed measured by the amount of consideration involved in the case of a foreclosure deed to a person other than the mortgagee.

Yours very truly,
WILLIAM J. BAXLEY
Attorney General

June 13, 1977

Dr. Paul R. Hubbert
Ex Officio Secretary
Alabama State Tenure Commission
P. O. Box 4177
Montgomery, Alabama

Teachers — Tenure

Teacher tenure at Junior Colleges and Trade Schools
is transferrable.

Opinion by Chief Assistant Attorney General Turner

Dear Mr. Hubbert:

I have your request for an opinion of this office wherein you ask if a teacher who has been tenured at a Junior College or Trade School with the State of Alabama is tenured only at that school or within the state system.

It is the opinion of this office that a teacher who has been granted tenure by the Alabama State Department of Education under policies established by that department is tenured by that department as a system and that this tenure can be in effect transferred from one institution to another.

For instance, if a Junior College fails to receive adequate teaching units in a particular year thereby causing a reduction in the number of teachers needed, a teacher at that institution who has been granted tenure should be offered a position at another institution within the system which institution might require a teacher in that field.

This is clear from reviewing all of the Alabama Statutes and Rules and Regulation of the State Board that is that tenure is granted in the system and not at a particular school or institution.

Sincerely yours,
WILLIAM J. BAXLEY
Attorney General

May 17, 1977

Mr. Patrick H. Tate
County Attorney
The DeKalb County Commission
DeKalb County Courthouse
Fort Payne, Alabama

Newspapers — Counties

County Commission must pay for cost of newspapers pursuant to Title 7, Section 724, Code of Alabama 1940 (Recompiled 1958), as amended

Opinion by Asst. Attorney General Lurie

Dear Mr. Tate:

Your request of May 12, 1977, pertaining to whether or not the county commission should pay for subscriptions and binding of newspapers as is provided by Title 7, Section 724, Code of Alabama 1940 (Recompiled 1958) as amended, has been received.

The provisions of said Title 7, Section 724 require the circuit court clerks, registers and judges of probate to subscribe to one copy of

each weekly newspaper published in their respective counties and to bind the same and keep them on file. For this service and expense the county must allow such officers the sums paid by them for such subscriptions and binding. There are certain exceptions which are not applicable in the case of DeKalb County.

The provisions of Act #1205, 1975 Acts, page 2384, do not in any manner repeal the provisions of said Title 7, Section 724 nor deal with the general law requirements of duties of the officials here considered with regard to the obligation to the court requiring subscription and binding for newspapers.

Therefore, it is the considered opinion of this office that the several counties must pay for the newspaper subscriptions and binding thereof either directly to the vendor or by way of reimbursement to the clerk, register and probate judges authorizing same.

Yours very truly,
WILLIAM J. BAXLEY
Attorney General

May 19, 1977

Ms. Elizabeth T. Lisenby
Tax Assessor
Crenshaw County Courthouse
Luverne, Alabama 36049

AD VALOREM — EXEMPTIONS — INSANE PERSON

Title 51, Section 2(f), as amended, Code of Alabama 1940, grants exemption from ad valorem taxation to the persons named therein and the exemption applies to the fair and reasonable market value of the property owned by those qualifying for the exemptions.

Opinion by Assistant Attorney General Payne.

Dear Ms. Lisenby:

Your letter addressed to the Attorney General dated May 5, 1977 is as follows:

"Title 51, Section 2, Paragraph (f) provides an ad valorem tax exemption as follows:

'The property of deaf mutes and insane persons to the extent of three thousand dollars and the property of blind persons to the extent of twelve thousand dollars.'

Please advise whether this exemption should be deducted from the appraised value prior to determining assessed value; deducted from

the assessed "value after it has been determined; or otherwise applied in calculating ad valorem taxes."

This office in an opinion reported in Quarterly Report, Attorney General, Volume 129, p. 11, ruled that the exemption set out in Section 2 applied to the fair and reasonable market value of the property owned by those persons set out in the Section. I quote from the opinion:

"The exemption granted in Section 2(f) supra, exempts property of blind persons to the extent of \$12,000. It is my opinion that the exemption applies to the fair and reasonable market value **and not to the assessed value**; that is, of the fair and reasonable market value, \$12,000 is exempt. I know of no authority to apply any **percentage** to the amount of the exemption. For example, if a blind person owns a home with a fair and reasonable market value of \$25,000, \$12,000 of that value would be exempt from taxation, leaving \$13,000 to be assessed at a percent not to exceed thirty percent." (Emphasis supplied.)

Obviously, the same reasoning would be applied to the case of deaf mutes and insane persons involving the \$3,000 exemption accorded them.

The above considered, it is my opinion that the exemption about which you inquire applies to the fair and reasonable market value of the property owned by the persons mentioned.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

23 May 1977

Major General Henry B. Gray, III

Alabama State Military Department
Office of the Adjutant General
Montgomery, Alabama 36102

National Guard — Military Department

All employees of private business or industry called to military active duty are entitled to leave of absence from their civilian occupations without loss of pay, time, efficiency rating, annual or vacation leave.

Opinion by Assistant Attorney General Lett

Dear General Gray:

We are in receipt of your request for an opinion wherein you ask whether private industry or business which employs a member of the

Alabama National Guard etc. may require that employee to take leave of absence from said industry or business without pay, annual leave or sick leave while attending two weeks of annual training?

We answer your question in the negative. The applicable statutory language is patently clear and unambiguous. Title 35, Section 185(13) **Code of Alabama 1940**, as amended [1973 Cum. Supp.] states as follows:

"All officers or employees of the state of Alabama, or of

any county, municipality, or other agency or political subdivision thereof, or officers or employees of any public or private business or industry who shall be active members of the Alabama national guard, naval militia, or the Alabama state guard organized in lieu of the national guard, or of any other reserve component of the armed forces of the United States, shall be entitled to military leave of absence from their respective civil duties and occupations on all days that they shall be engaged in field or coast defense or other training or on other service ordered under the provisions of the national defense act, or of the federal laws governing the United States reserves, without loss of pay, time, efficiency rating, annual vacation, or sick leave, but no such person granted such leave of absence with pay shall be paid for more than twenty-one working days per calendar year, and such persons shall be entitled, in addition thereto, to be paid for no more than twenty-one working days at any one time while called by the governor to duty in the active service of the state. This section shall apply to all schools and institutions of learning supported by state funds."

Private business and industry are, by the mandates of the foregoing statutory language, under an **affirmative** duty to insure that all of its employees do not lose their civilian pay, time, efficiency rating, annual vacation or sick leave while its employees are on active duty service.

We are glad to have been of service to you.

Sincerely,
WILLIAM J. BAXLEY
Attorney General

May 9, 1977

Mr. Charles W. Woodham

Attorney and Secretary
Henry County Hospital Board
P. O. Box 636
Abbeville, AL 36310

Hospitals — Physicians — Funds

Hospital Board has authority to expend money for the purposes of recruiting a physician or physicians to staff the County Hospital.

Opinion by Assistant Attorney General Kendrick.

Dear Mr. Woodham:

I am writing in response to your letter of April 26, 1977 requesting a formal opinion from this office. The text of your request is set out in full below.

Reference is made to my letter of December 2, 1975, and to your opinion of December 16, 1975, entitled "Hospital Board can pay Expenses of Doctors who are being recruited to Staff Hospital."

The Henry County Hospital Board is still actively recruiting additional physicians to staff the Henry County Hospital. The Hospital Board is considering retaining a professional physician recruiter for the purpose of recruiting physicians to staff the Henry County Hospital.

Accordingly, the Henry County Hospital Board requests your formal opinion on the following question:

Can a hospital Board organized under Title 22, Section 204 (24) of the Alabama Code of 1940, as Recompiled in 1958, legally pay a professional physician recruiter to recruit physicians to set up practice in the operating area of the Hospital and to staff the Hospital?

Thank you for your kind and prompt attention to this matter. With kindest personal regards, I am

Pursuant to the rationale of the above referenced letter of December 16, it is the opinion of this office that the Hospital Board has authority to expend money for the purposes of recruiting a physician or physicians to staff the County Hospital.

Sincerely,
WILLIAM J. BAXLEY
Attorney General

May 17, 1977

Mr. David H. Williams
Executive Director

State Board of Pardons and Paroles
Montgomery, AL 36130

Pardons and Paroles, Board of — Prisons and Prisoners
Mental Institutions

1. An insane prisoner confined to a mental institution may receive credit for the time of his confinement against the sentence.
2. Once a person confined to a mental institution recovers he is to be returned to committing officers, and he can then be paroled only by the Board of Pardons and Paroles.

Opinion by Assistant Attorney General Breland

Dear Mr. Williams:

Your request for an official opinion, bearing the date of February 28, 1977, is as follows:

"The Board of Pardons and Paroles has asked that I request your official opinion regarding the following issues.

"There are a number of persons under sentence to state prisons who are confined in mental institutions and the Board needs guidance on how to proceed in such cases.

Does a person receive credit on his sentence while in a mental institution?

Does the Alabama Board of Pardons and Paroles have jurisdiction and authority to parole prisoners who are confined in a mental institution?

"We shall appreciate your assistance in this matter."

In answer to the first question, it is my opinion that a prisoner does receive credit on his sentence while in a mental institution. This opinion is based on a prior Attorney General's Opinion, dated May 11, 1949, Quarterly Report of the Attorney General, Vol. 55, p. 88, which reaches the same conclusion.

In answer to the second question, if a state prisoner committed to a mental institution recovers, he should be returned to the officers who committed him to resume his sentence. Title 45, Section 227, Code of Alabama 1940 (Recompiled 1958). Then he would be eligible for parole only by the Pardons and Parole Board just as any other prisoner. Of course, until he has recovered he would not be eligible for parole by anyone.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

May 6, 1977

Honorable Taylor Hardin
Mental Health Commissioner
502 Washington Avenue
Montgomery, Alabama 36130

Mental Health Board — Liability — Attorneys — Judgments
Payment of attorney's fees in civil rights judgments discussed.

Opinion by Attorney General Baxley

Dear Mr. Hardin:

Your request for an official opinion dated April 28, 1977, is as follows:

1. Can the Alabama Mental Health Board expend funds of the Department of Mental Health to satisfy the judgments in these cases? (Federal civil rights cases against Board members, Commissioner of Mental Health and hospital superintendents arising out of the death of a patient)
2. Can the Alabama Mental Health Board expend funds of the Department of Mental Health to satisfy the court costs, including reasonable attorneys fees as set by the court, which will be taxed in these cases?

My answer to both questions is in the affirmative.

Recent rulings of the Supreme Court of the United States have significantly and substantially broadened the concept of liability of executive officials of state government under the Civil Rights Acts, in particular USC, Title 42, §1983. See **Scheuer v. Rhodes**, 416 U.S. 232 (1974); **Wood v. Strickland**, 420 U. S. 308 (1975); **Donaldson v. O'Connor**, 94 S. Ct. 2494 (1975)

Although the doctrine of sovereign immunity is available to the state, and to officials sued in their official capacity, it is not available to the same officials sued in their individual capacity **even though** the actions they took were within the scope of their duties and they were completely within their authority. Liability may be fixed even though an official did not act with an malicious intent, or willfully or wantonly. From the facts as outlined in your letter, it does not appear that any of the defendants acted maliciously, intentionally, or willfully in these cases.

Recent opinions of this office have permitted the expenditure of state funds for the purchase of general liability insurance for certain county and municipal employees, including Board members of a Board of Education. See Opinion to A. R. McVay, Superintendent, Baldwin County Board of Education, under date of December 5, 1976; Opinion to Maxey J. Roberts, Attorney, University of South Alabama, under date of February 18, 1976; Opinion to Frank Ellis, Wallace, Ellis, Head & Fowler, under date of October 16, 1975; Opinion to James C. Sawyer, Judge of Probate and Chairman of Coffee County Commission, under date of October 14, 1975.

Payment of insurance premiums for protection against the payment of judgments is the equivalent of, and in concept no different than the payment of the judgment itself, except that the risk is spread more evenly over a number of years.

There is no legal or logical distinction between using state funds to pay insurance premiums (spreading the risk over a number of years) and using state funds to pay a judgment resulting from the same kind of liability that would have been insured.

This office recognizes that as a matter of policy, officers and officials of the state need some degree of protection from judgments of the type rendered in this circumstance. Failure to provide such protection would in all probability result in a mass exodus of the highly qualified and dedicated public officers and officials so necessary for sound state government.

Nothing contained herein is intended to relate to the defense of an officer or employee in a criminal proceeding or to a charge of fraud or misappropriation of public money.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

May 10, 1977

Hon. David Barber, Deputy District Attorney
Tenth Judicial Circuit of Alabama
610 Courthouse
Birmingham, Alabama 35203

MOTOR VEHICLES — TITLE ACT

Article III (Antitheft Laws) Of The Alabama Uniform Certificate Of Title And Antitheft Act Applies to Automobiles and Automobile Engines Manufactured Prior To 1975 As Well As To Those Manufactured Subsequent To That Date.

Opinion by Assistant Attorney General Bowden

Dear Mr. Barber:

In your request for an opinion dated April 28, 1977, you ask the following questions with regard to the "Alabama Uniform Certificate of Title and Antitheft Act," Act No. 765, Regular Session, 1973 Alabama Legislature:

"(1) Does Article III (Anti-Theft Laws) Sections 34-42 of The Act apply to automobiles manufactured prior to 1975?"

(2) Does Article III Section 40 apply to automobile engines manufactured prior to 1975?

(3) Under Article III of The Act, is it illegal for a person to possess an automobile manufactured prior to 1975 that has all of the manufacturer's vehicle identification numbers removed, altered, or falsified?

(4) Are there any sections of the Act other than the Title Registration Section and Salvage Section that are limited in application to 1975 and later modeled automobiles?"

Section 2(a) of Act 765 provides, with certain exceptions, that a certificate of title is required for all motor vehicles designated a 1975 or later model. Article III, Section 34 provides:

"This article does not apply to the following unless a title certificate has been issued on such vehicles under this Act:

- (a) A vehicle moved solely by animal power;
- (b) An implement of husbandry;
- (c) Special mobile equipment; and
- (d) A self-propelled wheel chair or invalid tricycle."

When the above-quoted section is read in conjunction with Section 2(a), it can be seen that only 1975 and later model years of the particular types of vehicles designated above are subject to the Anti-theft provisions of Act 765. This implies that all model years, including models prior to 1975, of vehicles not specifically designated above are subject to the Antitheft laws contained in Article III of Act 765.

Furthermore, nowhere in Article III can there be found any language which would limit its scope to vehicles which are required to be titled, i.e., to 1975 and later year models. The sections in this article continually refer to "a vehicle" and "a motor vehicle." This article therefore seems to apply to all vehicles, including models prior to 1975, except for those types of vehicles enumerated in Section 34. Your Questions numbered (1) and (2) are strongly answered in the affirmative.

Your question numbered (3) is likewise answered in the affirmative. See Sections 40(c) and (d) of Act 765.

Article II of Act 765, which deals with security interests in vehicles, appears to apply only to vehicles for which a certificate of title has been obtained.

Section 19(a) provides:

"(a) Unless excepted by Section 18, a security interest in a vehicle for which a certificate of title is required by the terms

of this Act is not valid against creditors of the owner or subsequent transferee or lienholders of the vehicle unless perfected as provided in this Act.

Section 19(b) provides:

(b) A security interest is perfected by the delivery to the Department of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the lienholder and the date of his security agreement, a copy of the security interest document, and the required fee. It is perfected as of the time of its creation if the delivery is completed within ten (10) thereafter, otherwise, as of the time of the delivery."

It can be seen from reading the above-quoted sections that in order to perfect a valid security interest in a 1975 or later model vehicle, the procedures set forth in this article must be followed. A valid security interest can be created in models prior to 1975 by means other than compliance with the provisions of this article. Your question numbered (4) is therefore answered in the affirmative.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

May 11, 1977

Honorable William M. Bouldin
Guin, Bouldin & Porch
500 North Jackson Avenue
Russellville, AL 35653

City of Russellville — Employers & Employees — Merit
Systems

Maximum age limit of Minimum Standards Act is invalid.

Opinion by Assistant Attorney General Knight

Dear Mr. Bouldin:

The Attorney General received your request for an opinion from this office concerning the appointment of the Chief of Police for the City of Russellville.

You asked the following questions:

1. In view of the **Opinion of the Justices** rendered to the House of Representatives on January 13, 1956, which is recorded in 264 Ala. 76, 84 So. 2d 768, is Act No. 465 of

the Alabama Legislature which was adopted August 22, 1973, applicable to the manner of selection of a Police Chief for the City of Russellville?

2. Must an acting Police Chief or temporary appointment as Police Chief comply with the minimum standards set out in Act 1981 of the 1971 Legislature, which has been set out as Title 55, Section 373(109) in the pocket parts of the 1958 Recompile of the Code of 1940?
3. If Act No. 465 of the 1973 Legislature approved on August 22, 1973, controls the selection of a Police Chief for the City of Russellville, may the "appointing authority", as the term is used in that Act, appoint, pursuant to the provisions of Section 11 of the Act No. 465 of the 1973 Legislature appoint as a temporary appointment provided for in said Section, an individual 54 years of age in violation of Act No. 1981 of the 1971 Legislature?

The **Opinion of the Justices** found at 264 Ala. 76, 84 So. 2d 768 (1956) declares a proposed legislative act providing for the election of a Chief of Police of the City of Haleyville unconstitutional because it amended Title 37, Section 406, **Code of Alabama 1940**, Recompile 1958, was was incorporated into the City Charter of Haleyville and therefore violated Section 104(18) of the Constitution of Alabama, 1901. This Constitutional Section prohibits the Legislature from passing a local law which amends the charter of any private or municipal corporation.

Title 37, Section 407, **Code of Alabama 1940**, Recompile 1958, states that the council of a municipality may provide for a chief of police and other officers, and prescribe their duties. In your letter you stated that the City Council of Russellville had adopted this provision by an appropriate resolution.

Act No. 465 of the 1973 Legislature, on its face, is applicable to the Chief of Police of your city, placing him on civil service. If Title 37, Section 407, *supra*, was adopted into the Charter of your city, the ruling in the **Opinion of the Justices** would apply to your situation and therefore Act No. 465 could not be applicable to the office of the Chief of Police of Russellville. If Section 407 was not adopted into the City Charter, but was merely adopted by resolution, the applicability of Act No. 465 to the office of the Chief of Police would not be affected by the ruling in the **Opinion of the Justices**, *supra*, and that office would come under the civil service system of the City.

Regarding your second question, it is the opinion of this office that anyone appointed as a law enforcement officer after the effective date, September 20, 1971, of the Act setting forth the minimum standards for law enforcement officers must comply with them, with the exception of the maximum age limit as discussed below. The Act makes

no mention of an exemption for temporary appointees and plainly states that no city shall appoint a person as a law enforcement officer who does not meet the minimum standards required. Therefore, any law enforcement officer appointed must comply with the standards.

Concerning your last question, it is the opinion of this office that the Maximum age limit of the Law Enforcement Officers Minimum Standards Act of Alabama (Act No. 1981 of the 1971 Legislative Session) is in conflict with the federal Age Discrimination in Employment Act of 1967 as amended in 1964 (29 USC 621, et seq.) and therefore is invalid.

Section 4(a) (1) of the Discrimination Act states:

It shall be unlawful for an employer—(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

The Law Enforcement Minimum Standards Act of this state arbitrarily sets forty-five years of age as the maximum age at which an individual can be hired as a law enforcement officer in this state. A recent investigation by the U.S. Department of Labor found no reason that this maximum age limit is a bona fide occupational qualification reasonably necessary for the normal operation of law enforcement and therefore, in violation of the Section 4(a) (1) of the Age Discrimination Act.

Because federal law takes precedence over any state law, the maximum age limit of the Minimum Standards Act is unenforceable in light of the Age Discrimination Act. Therefore, the City of Russellville may appoint an individual 54 years of age as its Chief of Police, provided he meets the other requirements of the Minimum Standards Act.

If our office can be of further assistance to you, please do not hesitate to let us know.

Very truly yours,
WILLIAM J. BAXLEY
Attorney General

INFORMAL OPINIONS

During the period April 1, 1977 through June 30, 1977 the Attorney General rendered the following informal opinions.

Subject	Addressee	Date	File
— A —			
ABC BOARD			
Pool Tables—293 Ala. 43 (1974)	Felton Yates	May 10	180
Products Direct—From Producer	Thomas Jeff Davis	May 31	ABC Board
AD VALOREM			
City Ad Valorem Tax—Due in Advance	Barbara L. Goggans	May 3	230
Reappraisal Costs—Not Paid	Buford L. Cryar	May 30	260
From Certain Revenues			
Annexed Property—Ad Valorem Exemption	C. D. Rucks	May 31	377
AERONAUTICS, DEPT. OF			
Airport Authorities—Utility Pole Removal	James Rowe	June 22	Aeronautics
AGING, COMMISSION ON			
South Central Alabama Planning			
Commission—Agency for the Elderly	Lewis F. Duckworth	Apr. 1	Dept. 173
AIR POLLUTION CONTROL COMMISSION			
Air Pollution Control Comm.—			
May Vacate County Order	Ben V. Branscomb	Apr. 21	Air Pollution Control Comm.
AIRPORTS			
Airport Authorities—Utility Pole Removal	James Rowe	June 22	Aeronautics Dept. 319
Airport Authority—Selma—Councilman	W. McLean Pitts	June 24	
ALABAMA PEACE OFFICERS' FUND			
Amendment to Fund—Not Retroactive	Edward P. Brown	June 13	APD
ALCOHOLIC BEVERAGES			
Act No. 244, 1976 Acts—	Thomas B. Shelton	Apr. 6	151
Liquor Licensees Only			

Subject	Addressee	Date	File
ANNEXATION			
City Referendum—Annexation— Local Act	B. C. Hornady	May 16	238
Annexed Property—Ad Valorem Exemption	C. D. Rucks	May 31	377
Annexation—Area in Another City	Joe Brindley	June 20	414
ARRESTS			
Constables—Arrest Power	Melvin Stephens	May 17	196
ASSESSMENTS			
Court Cost—Condemnation Award Assessments	John A. Russell, III	June 16	174
ATHENS COLLEGE			
Athens College—Dormitory Rental	Wayne Teague	Apr. 26	Educ.
ATTORNEYS			
Prosecutor's Law Partners— Criminal Defendant	Aubrey Ford, Jr.	May 17	218
Pike County—Sheriff Sued— Attorney's Fees	Harold Anderson	May 9	222
Conecuh County Commissioners— Attorney's Fees	David L. Burt	June 9	253
City Attorney—De Novo Appeals Veterans Affairs Director— Attorney's Fees	Samuel H. Monk, II W. W. Wadsworth	May 11 June 9	294 Veterans Affairs
AUBURN UNIVERSITY			
Auburn Univ.—Non Academic Employees	Thomas D. Samford, III	June 3	248
AUCTIONS & AUCTIONEERS			
Gadsden License Fee— Auctioneers—Cannot Charge	Kathleen M. Warren	Apr. 12	141
City Surplus Property— Auction—Employee Purchase	J. Howard McEniry, Jr.	May 19	304

— B —

BARBOUR COUNTY

No Write-In Votes— Office Not on Ballot
Deputy Sheriff—City of Clio

W. Mack Price
Boyd Whigham

May 11 240
June 20 280

BILLIARDS

Pool Tables—293 Ala. 43 (1974)
Pool Tables—Outside City

Felton Yates
F. R. Albritton, Jr.

May 10 180
May 4 278

BINGO

Bingo—Circumstances
Determine Legality

James C. Parsons

May 4 169

BIRMINGHAM, CITY OF

Birmingham Water Works—Cahaba River

Jack E. Ravan

Apr. 14 185

BOARD OF EDUCATION

Hospital Insurance—Teachers—
Cancer Care

Roy Johnson

Apr. 11 137

Employee Dismissal—

Angi Proctor

Apr. 5 138

Superintendent Recommends

David B. Carnes

Apr. 28 156

Educ.—Term of Office

Uralee A. Haynes

Apr. 27 30

Lowndes County—School

Wayne Teague

Educ.

Construction Contract

Dan C. Alexander

235

Local Boards—Length Of School Day

May 5

Boards of Education—Closed Meetings

May 11

BOARDS OF EQUALIZATION

Board of Equalization—

T. Walter Oliver, Jr.

May 23 99

Employees in County Retirement

Jimmy Byars

May 18 270

Compensation—Boards of Equalization

Henry J. Chaney

Apr. 9 195

BOARDS OF REGISTRARS

Board of Registrars—Training Expenses

Thomas E. Snoddy

June 23 373

Boards of Registrars—Per Diem Payment

Apr. 1

BOXING & WRESTLING COMMISSION

Boxing/Wrestling Commission—

Ben Holmes

Boxing & Wrestling Comm.

Inspector—State Employee

Subject	Addressee	Date	File
-- C --			
CANDIDATES			
Municipal Candidate—19 Years of Age	Guy F. Gunter	May 25	232
CHILTON COUNTY			
Deputy Sheriffs—Overtime Pay	John Hollis Jackson, Jr.	Apr. 28	176
CIRCUIT CLERKS & REGISTERS			
Marshall County—Register—	H. Jack Thompson	Apr. 21	215
\$300 Supplement	E. Earl King	Apr. 28	243
Supernumerary—Cannot Also	George Allen Desmond	May 10	162
Receive Salary	Maury Friedlander	Apr. 18	91
Circuit Clerks—Circuit	Murray H. Gibson	Apr. 19	188
Judges Supervises	Waymon W. Elam	Apr. 28	155
Judicial Article—Register's	Billy D. Harbin	May 3	309
Salary—Mobile County			
Fees—Cases Filed Before 1-16-77			
Winston County—Clerk			
Hire Allowance			
Circuit Clerks—Passport Fee			
CITRONELLE, CITY OF			
Citronelle—Zoning	C. B. Johnson	June 8	202
CIVIL DEFENSE DEPARTMENT			
Water & Sewer Board—	C. J. Sullivan	May 5	Civil Defense
City of Guin—Public Corporation			
Civil Defense—Fayette County	Sam Collins	May 31	282
CLEBURNE COUNTY			
Cleburne Co.—D.A.—			
Retroactive Salary	Robert M. Field	June 29	313
COLEBERT COUNTY			
Water Works—County Funds	Bruce Gargis	June 22	62

COLLEGES & UNIVERSITIES

Auburn Univ.—Non Academic Employees	Thomas D. Samford, III	June 3	248
Mental Health Center—Univ. of Alabama in Birmingham	James W. West	May 25	289
Doctoral Candidate—Retaking Exam	Fred Jones	June 16	83

COMMUNITY DEVELOPMENT ACT

Community Development Act—County Prime Sponsor	Terry Bush	May 2	170
--	------------	-------	-----

COMMUNITY DEVELOPMENT PROGRAM

Community Development Funds—Town of Wilton	James M. Henson	May 3	216
--	-----------------	-------	-----

COMPENSATION

Mobile County—Deputy Sheriffs—Compensation	Roderick P. Stout	May 3	160
Compensation—Board of Equalization	Jimmy Byars	May 18	270
Cleburne Co.—D.A. Retroactive Salary	Robert M. Field	June 29	313

COMPETITIVE BID LAW

City of Mobile—Motor Fuel Procurement	William H. Brigham	May 10	56
City Surplus Property—Auction—Employee Purchase	J. Howard McEniry, Jr.	May 19	304
State Agency—Construction Employees—No Bids	James R. Bennett	June 10	87
City Employees—Appointment by Council	Norman Plunkett	June 22	400

CONDEMNATION

Court Cost—Condemnation Award—Assessments	John A. Russell, III	June 16	174
---	----------------------	---------	-----

CONDOMINIUMS

Condominium—Insured Loan	L. H. Kloess, Jr.	May 6	281
--------------------------	-------------------	-------	-----

CONECUH COUNTY

Deputy Sheriff—Conecuh County	James E. Warren	May 30	286
-------------------------------	-----------------	--------	-----

Subject	Addressee	Date	File
CONFLICTS OF INTEREST			
Prosecutor's Law Partner— Criminal Defendant	Aubrey Ford, Jr.	May 17	218
Councilman—No Business With City Planning Commission Member— Housing Authority	Henry Pass Buddy Colley	May 31 May 2	257 290
City Attorney—De Novo Appeals Airport Authority—Selma—Councilman Councilman—Medical Clinic Board Councilman—No Interest In City Contract	Samuel H. Monk, II W. McLean Pitts Kevin G. Lanier Pat Jordan	May 11 June 24 June 16 May 31	294 319 33 365
CONSERVATION DEPARTMENT			
Senate Bill 29—Conservation Department Fishing Licenses—Non Resident	J. Richmond Pearson John W. Hodnett	Apr. 18 June 8	211 Conservation
CONSTABLES			
Constables—Arrest Power District Court—Attendance Of Sheriff Constables—Travel Allowance	Melvin Stephens Wayne Miller Eula Dodd	May 17 June 8 May 25	Dept. 196 266 302
CONSTITUTIONALITY			
Legislative Act— Population Classification Senate Bill No. 786—Dallas County—Unconstitutional	Hoyt Elliott John A. Lockett, Jr.	June 28 June 17	346 349
CONTRACTORS			
Roof Repair—Not Construction	Bruce Sherrill	June 20	301
CONTRACTS			
Lowndes County—School Construction Contract Selma School—Construction Contract Chilton County—School Construction—Change Order Butler County—School Construction Contract	Uralee A. Haynes J. A. Pickard L. C. Shields J. Shelby Searcy	Apr. 27 May 10 June 1 June 1	30 171 242 244

School Construction—Change Order	Estes Hudson	June 3	287
Change Order—Lawson State	Leon Kennedy	June 3	288
Community College			
Roof Repair—Not Construction	Bruce Sherill	June 20	301
St. Clair County—School	George G. Eden	June 3	300
Engineering Fee			
City Contract—Halfway House	Charles H. Younger	June 10	366
COOSA COUNTY			
Coosa Co.—Probate Judge—Salaried	Jasper Fielding	May 19	372
CORONERS			
County Coroner—Also Jail Physician	J. Knox Argo	June 17	284
Coroners—Blood Samples	W. W. Rayburn	June 3	325
COSTS & FEES			
Drivers License—When			
Produced in Court	Frontis S. Winford	Apr. 28	263
COUNTIES			
Prisoner Transfer—County To City	William J. Benton	Apr. 29	111
Physical Exam—Police Academy—	J. Edward Johnson	Apr. 30	166
County May Pay	Terry Bush	May 2	170
Community Development Act—			
Community Prime Sponsor	C. P. "Red" Walker	May 9	175
Sunshine Law—Counties	Louie C. Coleman	Apr. 15	224
Insurance Premiums—Sheriff	Rufus C. Huffman	May 16	243
Courthouse Space—Sheriff's Duties	John Hollis Jackson, Jr.	May 11	176
County—Insurance Premium—			
Deductible Amount			
Solid Waste Program—	John Ben Jones, III	May 9	251
Chambers County—East Ala. District			
Mental Health Boards—	Tom Jarzen	May 2	255
Audited By Examiners			
Water Works—County Funds	Bruce Gargis	June 22	62
Road & Bridge Fund—Diversion	Bruce Gargis	June 17	62
Public Library—City Funds	L. Frank Snell	Apr. 8	273
Civil Defense—Fayette Co.	Sam Collins	May 31	282
County Supplements—	Fred Zeigler	June 3	Comptroller

Subject	Addressee	Date	File
Social Security Contributions St. Clair County—District Judge—Salary County Property—Public Library	James S. Satterfield Clarence Bishop	June 16 June 21	47 334
COURT REPORTERS Supernumerary—Cannot Also Receive Salary	E. Earl King	Apr. 28	223
COURTS Court Administration Fund— Indigent Defense Commission District Court—Attendance Of Sheriff	Joseph M. Hocklander Wayne Miller	May 10 June 8	167 266
CREDIT UNIONS Mental Health Credit Union— Act 310 Boards	Randolph M. Fowler	June 10	332
— D —			
DALLAS COUNTY Senate Bill No. 786—Dallas County—Unconstitutional	John A. Lockett, Jr.	June 17	349
DISTRICT ATTORNEYS Cleburne Co.—D.A.—Retroactive Salary	Robert M. Field	June 29	313
DRIVER LICENSES Driver Education Program— Learner's Permit Drivers License—When Produced in Court	Wayne Teague Frontis S. Winford	Apr. 5 Apr. 28	Educ. Dept. 263
DUAL OFFICEHOLDING Board of Education—District Attorney—Offices of Profit City Councilman—Volunteer County Road Foreman—	Dale Brasher Ronnie Rampey John Hollis Jackson, Jr.	Apr. 4 May 17 May 30	136 219 176

Not On Water Board				
County Coroner—Also Jail Physician	J. Knox Argo	June 17	284	
Mulga Water/Gas Board—	Dewey Black	May 5	305	
Compensation				
Councilman—Medical Clinic Board	Kevin G. Lanier	June 16	33	
— E —				
EDUCATION DEPARTMENT				
Athens College—Dormitory Rental	Wayne Teague	Apr. 26		Educ. Dept.
Local Boards—Length Of School Day	Wayne Teague	May 5		Educ. Dept.
Housing Allowance—State				
Superintendent	Harold Martin	May 25		Educ. Dept.
EDUCATION STUDY COMMISSION				
Education Study Commission—	Otto E. Simon	May 31		Educ. Study
Expenses For Meetings				Comm.
ELECTIONS				
No Write-In Votes—Office Not On Ballot	W. Mack Price	May 11	240	
EMPLOYERS & EMPLOYEES				
Boxing/Wrestling Commission—	Ben Holmes	Apr. 1		Boxing &
Inspector—State Employee				Wrestling
Mobile County—Personnel	Mylan R. Engel	Apr. 22	89	Comm.
Board—Reemployment				
New Mayor—Reappointments Required	J. Thomas King	May 30	246	
City of Florence—	Arnold Tekes	May 30	250	
Retirement—Insurance				
Auburn University—Non	Thomas D. Samford, III	June 3	248	
Academic Employees				
City Surplus Property—	J. Howard McEniry, Jr.	May 19	304	
Auction—Employee Purchase				
ETHICS COMMISSION				
Surface Mining Commission—	Virgil Willett	Apr. 20		Surface Mining
Office Space Lease				Reclamation
				Comm.

Subject	Addressee	Date	File
ETOWAH COUNTY			
Etowah County—Supt. of Education—Term of Office	David B. Carnes	Apr. 28	156
EXAMINERS OF PUBLIC ACCOUNTS			
Mental Health Boards—Audited By Examiners	Tom Jarzen	May 2	255
EXEMPTIONS			
Girl Scouts—Exempt From Taxes & Fees	John W. Hodnett	Apr. 8	Conservation Dept.
Annexed Property—Ad Valorem Exemption	C. D. Rucks	May 31	377
EXPENSES			
Board of Registrars—Training Expenses	Henry H. Chaney	Apr. 9	195
County Hospital—Board Expenses	W. C. Kingsberry	Apr. 11	213
City Clerk—Expenses	Louise H. Reeder	May 17	217
Sheriff's Expenses—Feeding Juveniles & Insanes	Harold Anderson	Apr. 15	222
Education Study Commission—Expenses for Meetings	Otto E. Simon	May 31	Educ. Study Comm.
Water Board—Expenses	A. J. Cooper, Jr.	June 2	39
District Judge—Expense Allowance	W. T. Lockard	May 16	245
Prichard Water Board—Expenses	Shafter Summers	June 3	247
Coosa Co.—Probate Judge—Salaried	Jasper Fielding	May 19	372
Boards of Registrars—Per Diem Payment	Thomas E. Snoddy	June 23	373
— F —			
FEES			
Fees—Cases Filed Before 1-16-77	Murray H. Gibson	Apr. 19	188
Mobile County—License Commissioner—Fees	Thornton Price-Williams	June 7	254
Oil & Gas Board—Permit Fees	Thomas J. Joiner	June 22	Oil & Gas Bd.
Circuit Clerks—Passport Fee	Billy D. Harbin	May 3	309

Probate Judge Fees— County General Fund	C. W. Hudson	June 20	324
FILING TAX			
Church Bond Resolution— Mortgage Tax	Frank J. Green	June 7	291
FLORENCE, CITY OF			
City of Florence— Retirement—Insurance	Arnold Tekes	May 30	250
FUNDS			
Industrial Development Board— Parking Lot	Kathleen M. Warren	Apr. 1	141
County Administration Fund— Indigent Defense Commission	Joseph M. Hocklander	May 10	167
Sewer System—Paid By City	Annie Mae Gable	Apr. 11	267
City Funds—Boy Scouts Contract	Kevin G. Lanier	Apr. 6	33
No City Funds—Private Museum	Edward P. Porter	May 31	339
	— G —		
GADSDEN, CITY OF			
Gadsden License Fee— Auctioneers—Cannot Charge	Kathleen M. Warren	Apr. 12	141
GAME & FISH			
Fishing Licenses—Non Resident	John W. Hodnett	June 8	Conservation Dept.
GAMING & LOTTERIES			
Bingo—Circumstances Determine Legality	James C. Parsons	May 4	169
Pool Tables—Outside City	F. R. Albritton, Jr.	May 4	278
GASOLINE TAX			
City Road Maintenance—Gas Tax	Delene Gibbs	Apr. 15	261
GIRL SCOUTS			
Girl Scouts—Exempt From Taxes & Fees	John W. Hodnett	Apr. 8	Conservation Dept.

Subject	Addressee	Date	File
GULF SHORES, TOWN OF Gulf Shores—Zoning Ordinance	Douglas Capps	Apr. 12	239
GUNTERSVILLE, CITY OF Guntersville—License Tax Allocation	E. Charles Ogden, III — H —	June 27	354
HEALTH & HEALTH DEPTS. Air Pollution Control Comm.— May Vacate County Order	Ben V. Branscomb	Apr. 21	Air Pollution Control Comm.
HISTORICAL COMMISSION Capital Improvement—Funds Research—Printing & Distribution	Warner Floyd W. Warner Floyd	June 22 Apr. 19	Historical Comm. Historical Comm.
HOSPITALS County Hospital—Board Expenses Hospital Bldg. Authorities— No Limit To Number	W. C. Kingsberry Edward L. Goodson	Apr. 11 June 10	213 351
HOUSING AUTHORITIES Community Development Funds— Town of Wilton Planning Commission Member— Housing Authority	James M. Henson Buddy Colley	May 3 May 2	215 290
HOUSTON COUNTY Personnel Board—Houston County	H. P. Pritchett	Apr. 28	153
HUMANE SOCIETY Seized Animals—Humane Society	Steve Ledbetter — I —	June 22	342
INDIGENT DEFENSE COMMISSION County Administration Fund— Indigent Defense Commission	Joseph M. Hocklander	May 10	167

INDUSTRIAL DEVELOPMENT BOARDS

Industrial Development Bd.— Parking Lot	Kathleen M. Warren	Apr. 1	141
Industrial Development Board— Funds for City Library	L. E. Gosa	Apr. 19	182
Industrial Development Bd.— No Grocery Stores	Wilmer Parker, Jr.	Apr. 22	241

INDUSTRIAL RELATIONS, DEPT. OF

Fraud Investigators— Industrial Relations— Subsistence Allowance	Roger Killian	May 9	40
Pickets—Warrants Injunction	Tom J. Ventress	Apr. 14	Industrial Relations

INSURANCE

Hospital Insurance—Teachers— Cancer Care	Roy Johnson	Apr. 11	137
Insurance Premiums—Sheriff County—Insurance Premium— Deductible Amount	Louie C. Coleman John Hollis Jackson, Jr.	Apr. 15 May 11	224 176
County Hospital Insurance— Library Board Member—DeKalb County	Patrick H. Tate	June 9	122

— J —

JACKSON COUNTY

Jackson County—Deputy Registrars Sheriff's Office—Supplies	San Gant, II W. R. Collins	May 31 May 18	37 277
---	-------------------------------	------------------	-----------

JACKSONVILLE, CITY OF

Act No. 244, 1976 Acts— Liquor Licensees Only	Thomas B. Shelton	Apr. 6	151
--	-------------------	--------	-----

JEFFERSON COUNTY

Air Pollution Control Comm.— May Vacate County Order	Ben V. Branscomb	Apr. 21	Air Pollution Control Comm.
---	------------------	---------	--------------------------------

Subject	Addressee	Date	File
JUDGES			
District Judge—Expense Allowance	W. T. Lockard	May 16	245
St. Clair County—District Judge—Salary	James S. Satterfield	June 16	47
District Judge—Vacancy—Jefferson County	William C. Barber	June 30	331
JUDGMENTS			
Conecuh County Commissioners—Attorney's Fees	David L. Burt, Jr.	June 9	253
Veterans Affairs Director—Attorney's Fees	W. W. Wadsworth	June 9	Veterans Affairs
JUDICIAL ARTICLE			
Circuit Clerks—Circuit Judge Supervises	George Allen Desmond	May 10	162
Judicial Article—Register's Salary—Mobile County	Maury Friedlander	Apr. 18	91
Baldwin County—Sheriff's Fees	Eunice B. Blackmon	May 16	172
Municipal Court Judge—Contributions Not Transferable	Joe G. Barnard	Apr. 29	189
District Judge—Expense Allowance	W. T. Lockard	May 16	245
St. Clair County—District Judge—Salary	James S. Satterfield	June 16	47
Circuit Clerks—Passport Fee	Billy D. Harbin	May 3	309
District Court—Magistrate—Recorder's Court	Gene Boswell	May 16	320
District Judge—Vacancy—Jefferson County	Wm. C. Barber	June 30	331
No Mileage Fee—Guilty Arrest—Judicial Article	Glenn Murphy	Apr. 5	345
— L —			
LABOR			
Pickets—Warrants Injunction	Tom J. Ventress	Apr. 14	Industrial

LAW ENFORCEMENT

Physical Exam—Police Academy— County May Pay	J. Edward Johnson	Apr. 30	Relations 166
Deputy Sheriffs—Overtime Pay	John Hollis Jackson, Jr. Roger Killian	Apr. 28 May 9	176 40
Fraud Investigators— Industrial Relations— Subsistence Allowance	J. Richmond Pearson	Apr. 18	211
Senate Bill 29—Conservation Department	David G. Williams	June 30	Pardons & Paroles
Parole Officers—Subsistence Allowance	Charles A. Boswell	May 18	Revenue
Revenue Dept.—Peace Officers— Subsistence Allowance			

LEASES

State Agency—Long Term Lease Cities—Property Sale	J. Ben Swindle Marie Hay	Apr. 18 Apr. 27	Social Security 214
--	-----------------------------	--------------------	------------------------

LEGISLATION

Mobile County—Deputy Sheriffs—Compensation	Roderick P. Stout	May 3	160
Senate Bill 29—Conservation Department	J. Richmond Pearson	Apr. 18	211

LIABILITY

Prisoner Transfer—County to City Publicity & Information— Oxygen at Welcome Centers	William J. Benton Arthur B. Patton	Apr. 29 May 11	111 Publicity & Info. 222
Pike County—Sheriff Sued— Attorney's Fees	Harold Anderson	May 9	
Airport Authorities— Utility Pole Removal	James Rowe	June 22	Aeronautics Dept.

LIBRARIES

Industrial Development Board— Funds for City Library	L. E. Gosa	Apr. 19	182
City or County Libraries— One Board Only	Anthony W. Miele	May 12	Public Library
Public Library—City Funds	L. Frank Snell	Apr. 8	273

Subject	Addressee	Date	File
County Property—Public Library	Clarence Bishop	June 21	334
County Hospital Insurance—	Patrick H. Tate	June 9	122
Library Board Member—DeKalb County			
LICENSES			
City Water System—No License	Thomas R. Elliott, Jr.	Apr. 21	236
Tax by Another City			283
License Fee—Trucking Companies	Dorothy Henry	May 31	Oil & Gas Bd.
Water Well Drilling—	Thomas J. Joiner	Apr. 29	
License for Test Well			
Coosada—License Tax Refund	Oscar Tate	May 3	108
Business License—Half Outside City	Tommy Jones	June 2	295
License Tax—Fixed by State Law	Jerry W. Jackson	May 23	364
Mobile County—License	Thornton Price-Williams	June 7	254
Commissioner—Fees			
LOANS			
Condominium—Insured Loan	L. H. Kloess, Jr.	June 21	281
LOWNDES COUNTY			
Lowndes County—School	Uralee A. Haynes	Apr. 27	30
Construction Contract			
	— M —		
MAGISTRATES			
District Court—Magistrate—	Gene Boswell	May 16	320
Recorder's Court			
MARSHALL COUNTY			
Marshall County—Register—	H. Jack Thompson	Apr. 21	215
\$300 Supplement			
MAYORS			
City of Prichard—Control	A. J. Cooper, Jr.	May 6	39
of Employees			

City Under 6,000—Mayor Votes to Break Tie	Sam Stewart	Apr. 1	272
Recorder's Court—No Mayoral Intervention	Arthur Lee Taylor	June 17	258
Police Dept.—City Council Has Authority	Don T. Phillips	June 15	375
MEDICAL CLINIC BOARDS Councilman—Medical Clinic Board	Kevin G. Lanier	June 16	33
MENTAL HEALTH Mental Health Boards— Audited By Examiners	Tom Jarzen	May 2	255
Mental Health Center— Univ. of Alabama in Birmingham	James W. West	May 25	289
Mental Health Credit Union— Act 310 Boards	Randolph M. Fowler	June 10	332
MENTAL HEALTH, DEPT. OF Supplement to Opinion— Dated 11-9-76	Taylor Hardin	May 12	Mental Health
MERIT SYSTEM Personnel Board—Houston County	H. P. Pritchett	Apr. 28	153
MILEAGE TAX No Mileage Fee—Guilty Arrest—Judicial Article	Glenn Murphy	Apr. 5	345
MINES & MINING Degasification Project— No License Fee	Thomas J. Joiner	Apr. 20	Oil & Gas Bd.
MOBILE, CITY OF City of Mobile—Motor Fuel Procurement	William H. Bringham	May 10	56
MOBILE COUNTY Mobile Co.—Deputy Sheriffs— Compensation	Roderick P. Stout	May 3	160

Subject	Addressee	Date	File
Mobile County—Personnel Board—Reemployment	Mylan R. Engel	Apr. 22	89
MONTGOMERY COUNTY			
Non Merit Employees—Salary—Personnel Board	Walker Hobbie	May 2	31
County Coroner—Also Jail Physician	J. Knox Argo	June 17	284
MORTGAGE TAX			
Church Bond Resolution—Mortgage Tax	Frank J. Green	June 7	291
MOTOR CARRIERS			
Motor Vehicle Carriers Act—Tow Trucks	Juanita W. McDaniel	Apr. 2	Public Service Comm.
MOTOR VEHICLES			
Driver Education Program—Learner's Permit	Wayne Teague	Apr. 5	Educ.
MUNICIPALITIES			
Prisoner Transfer—County to City	William J. Benton	Apr. 29	111
Zoning—Restrictive Covenants	Eugene Ingram	Apr. 28	154
Water & Sewer Board—City	C. J. Sullivan	May 5	Civil Defense
Of Guin—Public Corporation			
City of Prichard—Control of Employees	A. J. Cooper, Jr.	May 6	39
Former Mayor—Payment As	William F. Little	Apr. 21	177
Water Superintendent			
Sewer Line—Sewer Board May Install	C. B. Johnson	May 25	202
Cities—Property Sale	Marie Hay	Apr. 27	214
City Clerk—Expenses	Louise H. Reeder	May 17	217
City Ad Valorem Tax—Due in Advance	Barbara L. Goggans	May 3	230
City Water System—No	Thomas R. Elliott, Jr.	Apr. 21	236
License Tax By Another City			
New Mayor—Reappointments Required	J. Thomas King	May 30	246
City of Florence—	Arnold Teks	May 30	250
Retirement—Insurance			

Councilman—No Business With City	Henry Pass	May 31	257
City Garbage Contract—Bid Law	Arthur Lee Taylor	May 24	258
City Road Maintenance—Gas Tax	Delene Gibbs	Apr. 15	261
Sewer System—Paid By City	Annie Mae Gable	Apr. 11	267
Coosada—Land Purchase Resolution	Rayvonne W. Thornton	Apr. 21	268
City Under 6,000—Mayor	Sam Stewart	Apr. 1	272
Votes to Break Tie			
Town Council—No Cost	Murrel F. Harbin	May 23	276
Of Living Increase			
Public Park—Sale By City	James E. Arrington	May 20	279
License Fee—Trucking Companies	Dorothy Henry	May 31	283
Business License—Half Outside City	Tommy Jones	June 2	295
City of Prichard—Council Actions	A. J. Cooper, Jr.	June 3	39
Building Permit—Two	Richard H. Prescott, Jr.	June 15	157
Police Jurisdictions			
City Surplus Property—	J. Howard McEniry, Jr.	May 19	304
Auction—Employee Purchase			
City Funds—To Trade School	Carroll Daugherty	June 15	303
In Another City			
City Funds—Boy Scouts Contract	Kevin G. Lanier	Apr. 6	33
No City Funds—Private Museum	Edward P. Porter	May 31	339
Court Cost—Condemnation	John A. Russell, III	June 16	174
Award—Assessments			
City Council—Committees	M. A. Lee	June 15	350
Hospital Bldg. Authorities—	Edward L. Goodson	June 10	351
No Limit To Number			
License Tax—Fixed By State Law	Jerry W. Jackson	May 23	364
Councilman—No Interest In City Contract	Pat Jordan	May 31	365
City Contract—Halfway House	Charles H. Younger	June 10	366
City Council—	John Myrick	June 15	370
Committee Appointments			
Annexed Property—Ad	C. D. Rucks	May 31	377
Valorem Exemption			
County Jail—City Contract With	Lisa M. Moon	June 22	387
City Employees—Appointment	Norman Plunkett	June 22	400
By Council			
Annexation—Area in Another City	Joe Brindley	June 20	414

Subject	Addressee	Date	File
	— N —		
NATIONAL GUARD State Retirement—National Guard Technicians	David G. Bronner	Apr. 28	Retirement
NEWSPAPERS Real Property—Sale For Taxes—Notice City License Fee—Newspapers	Dennis B. Howell Lynn Reeves	Apr. 22 May 10	148 208
NOTICES Real Property—Sale For Taxes—Notice	Dennis B. Howell	Apr. 22	148
	— O —		
OFFICERS & OFFICES Board of Education— District Attorney—Offices of Profit Former Mayor—Payment as Water Superintendent City Councilman—Volunteer Fire Chief County Road Foreman— Not On Water Board Conecuh County Commissioners— Attorney's Fees City Under 6,000—Mayor Votes to Break Tie City Council—Committees Councilman—No Interest In City Contract City Council— Committee Appointments Police Dept.—City Council Has Authority	Dale Brasher William F. Little Ronnei Rampey John Hollis Jackson, Jr. David L. Burt, Jr. Sam Stewart M. A. Lee Pat Jordan John Myrick Don T. Phillips	Apr. 4 Apr. 21 May 17 May 30 June 9 Apr. 1 June 15 May 31 June 15 June 15	136 177 219 176 253 272 350 365 370 375

OIL & GAS BOARD

Degasification Project—No License Fee	Thomas J. Joiner	Apr. 20	Oil & Gas Bd.
Water Well Drilling—	Thomas J. Joiner	Apr. 29	Oil & Gas Bd.
License For Test Well			
Research Fund—Expenditure	Thomas J. Joiner	Apr. 14	Oil & Gas Bd.
Oil & Gas Board—Permit Fees	Thomas J. Joiner	June 22	Oil & Gas Bd.

OPINIONS OVERRULED, MODIFIED

City of County Libraries—	Anthony W. Miele	May 12	Public Library
One Board Only			

ORDINANCES

Gadsden License Fee—	Kathleen M. Warren	Apr. 12	141
Auctioneers—Cannot Charge			
City License Fee—Newspapers	Lynn Reeves	May 10	208
City Employee—Appointment By Council	Norman Plunkett	June 22	400

— P —**PARDONS & PAROLES, BOARD OF**

Parole Officers—Subsistence Allowance	David H. Williams	June 30	Pardons & Paroles
---------------------------------------	-------------------	---------	-------------------

PARKS

Public Park—Sale By City	James E. Arrington	May 20	279
--------------------------	--------------------	--------	-----

PEACE OFFICERS

Revenue Dept.—Peace Officers—Subsistence Allowance	Charles A. Boswell	May 18	Revenue Dept.
--	--------------------	--------	---------------

PERMITS

Building Permit—Two Police Jurisdictions	Richard H. Prescott, Jr.	June 15	157
--	--------------------------	---------	-----

PETITIONS

Candidate—Petition—No Signatures	Agnes Baggett	May 6	Sec. of State
----------------------------------	---------------	-------	---------------

PHYSICIANS

County Coroner—Also Jail Physician	J. Knox Argo	June 17	284
------------------------------------	--------------	---------	-----

Subject	Addressee	Date	File
PLANNING & DEVELOPMENT COMMISSIONS			
South Central Alabama Planning Commission—Agency for Elderly Planning Commission Member—Housing Authority	Lewis F. Duckworth	Apr. 1	173
	Buddy Colley	May 2	290
PLAT BOOK			
Plat Reference—Description	John L. Moore	May 24	249
POOL TABLES			
Pool Tables—293 Ala 43(1974)	Felton Yates	May 10	180
Pool Tables—Outside City	F. R. Albritton, Jr.	May 4	278
PRICHARD, CITY OF			
City of Prichard—Control of Employees	A. J. Cooper, Jr.	May 6	39
Water Board—Expenses	A. J. Cooper, Jr.	June 2	39
Prichard Water Board—Expenses	Shafter Summers	June 3	247
City of Prichard—Council Actions	A. J. Cooper, Jr.	June 3	39
PRISONS & PRISONERS			
Prisoner Transfer County to City	William J. Benton	Apr. 29	111
County Jail—City Contract With	Lisa M. Moon	June 22	387
PROBATE JUDGES			
Non Merit Employees—Salary—Personnel Board	Walekr Hobbie	May 2	31
Plat Reference—Description	John L. Moore	May 24	249
Probate Judge Fees—County General Fund	C. W. Hudson	June 20	324
Coosa Co.—Probate Judge—Salaried	Jasper Fielding	May 19	372
PROPERTY			
School Property—Reversion to Owner	Joe R. Sport	May 12	193
Cities—Property Sale	Marie Hay	Apr. 27	214

PUBLIC LIBRARY SERVICE City or County Libraries— One Board Only	Anthony W. Miele	May 12	Public Library
PUBLIC MEETINGS Sunshine Law—Counties Boards of Education—Closed Meetings	C. P. "Red" Wolker Dan C. Alexander	May 9 May 11	175 235
PUBLIC SERVICE COMMISSION Motor Vehicle Carriers Act—Tow Trucks	Juanita W. McDaniel	Apr. 2	Public Service Comm.
Public Service Commission— Fuel Adjustment Clause	Jim Zeigler	May 23	Public Service Comm.
PUBLICITY & INFORMATION, BUREAU OF Publicity & Information— Oxygen at Welcome Centers	Arthur B. Patton	May 11	Publicity & Info.
— B —			
REAL ESTATE Coosada—Land Purchase Resolution	Rayvonne W. Thornton	Apr. 21	268
REAPPRAISAL Reappraisal Costs—Not Paid From Certain Revenue	Buford L. Cryar	May 30	260
RECORDERS COURT Prosecutor's Law Partner— Criminal Defendant Recorder's Court—No Mayoral Intervention	Aubrey Ford, Jr. Arthur Lee Taylor	May 17 June 17	218 258
REFUNDS Coosada—License Tax Refund	Oscar Tate	May 3	108
REGIONAL PLANNING COMMISSIONS Regional Planning Commission— Ex Officio Members Vote	Daniel L. Kinsey	June 7	259

Subject	Addressee	Date	File
RETIREMENT			
Mobile County—Personnel Board—Reemployment	My'lan R. Engel	Apr. 22	89
City of Florence—Retirement—Insurance	Arnold Tekes	May 30	250
RETIREMENT SYSTEMS			
State Retirement—National Guard Technicians	David G. Bronner	Apr. 28	Retirement Systems 189
Municipal Court Judge—Contributions Not Transferable	Joe G. Barnard	Apr. 29	99
Board of Equalization—Employees in County Retirement	T. Walter Oliver, Jr.	May 23	Retirement Systems
Teacher Retirement Credit—Dept. of Agriculture	David G. Bronner	May 23	Revenue Dept.
REVENUE, DEPARTMENT OF			
Revenue Dept.—Peace Officers—Subsistence Allowance	Charles A. Boswell	May 18	193
REVERSION			
School Property—Reversion to Owner	Joe R. Sport	May 12	62
ROAD & BRIDGE FUND			
Road & Bridge Fund—Diversion	Bruce Gargis	June 17	179
RUSSELLVILLE, CITY OF			
City Officers—Expense Allowance	William M. Bouldin	May 17	
	— \$ —		
SALARIES			
Water Board—Expenses	A. J. Cooper, Jr.	June 2	39
Town Council—No Cost Of Living Increase	Murrel F. Harbin	May 23	276

SCHOOLS

Selma School—Construction Contract			
School Property—Reversion To Owner	J. A. Pickard	May 10	171
Butler County—School Construction Contract	Joe R. Sport	May 12	193
Reappraisal Costs—Not Paid From Certain Revenues	J. Shelby Searcy	June 1	244
City Funds—To Trade School In Another City	Burford L. Cryar	May 30	260
St. Clair County—School Engineering Fee	Carroll Daugherty	June 15	303
	George G. Eden	June 3	300

SEARCHES & SEIZURES

Search Warrant—Sufficiency of Form

Thomas F. Sweeney Apr. 1 126

SECRETARY OF STATE

Candidate—Petition—No Signatures

Agnes Baggett May 6 Sec. of State

SELMA, CITY OF

Airport Authority—Selma—Councilman

W. McLean Pitts June 24 319

SHELBY COUNTY

Supernumerary Tax Collector—Time as Probate Clerk

Fay F. Quick May 20 413

SHERIFFS

Mobile County—Deputy Sheriffs—Compensation
Baldwin County—Sheriff's Fees
Deputy Sheriffs—Overtime Pay
Sheriff's Expenses—Feeding Juveniles & Insanes
Insurance Premiums—Sheriff District Court—Attendance Of Sheriff
Sheriff's Office—Supplies
Deputy Sheriff—City of Clio

Roderick P. Stout May 3 160
Eunice B. Blackmon May 16 172
John Hollis Jackson, Jr. Apr. 28 176
Harold Anderson Apr. 15 222
Louie C. Coleman Apr. 15 224
Wayne Miller June 8 266
W. R. Collins May 18 277
Boyd Whigham June 20 280

Subject	Addressee	Date	File
Deputy Sheriff—Conecuh County No Mileage Fee—Guilty Arrest—Judicial Article	James E. Warren Glenn Murphy	May 30 Apr. 5	286 345
SOCIAL SECURITY State Agency—Long Term Lease County Supplements—Social Security Contributions	J. Ben Swindle Fred E. Zeigler	Apr. 18 June 3	Social Security Comptroller
SOLID WASTE DISPOSAL ACT Fire Protection District— Chambers County—Solid Waste Disposal Solid Waste Program—Chambers County—East Alabama District City Garbage Contract—Bid Law	William O. Walton, Jr. John Ben Jones Authur Lee Taylor	Apr. 5 May 9 May 24	133 251 258
STATE DOCKS, DEPT. OF Retirement—State Docks—Probation	David G. Bronner	May 23	Retirement Sys.
STATE PARKS State Agency—Construction Employees—No Bids	James R. Bennett	June 10	87
SUNSHINE LAW Sunshine Law—Counties Boards of Education—Closed Meetings	C. P. "Red" Walker Dan C. Alexander, Jr.	May 9 May 11	175 235
SUPERNUMERARY STATUS Supernumerary—Cannot Also Receive Salary Supernumerary Tax Collector— Time As Probate Clerk	E. Earl King Fay F. Quick	Apr. 28 May 20	223 413
SURFACE MINING RECLAMATION COMMISSION Surface Mining Commission— Office Space Lease	Virgil Willett	Apr. 20	Surface Mining Reclamation Comm.

— T —

TANNEHILL STATE PARK State Agency—Construction Employees—No Bids	James R. Bennett	June 10	87
TAXATION Girl Scouts—Exempt From Taxes	John W. Hodnett	Apr. 8	Conservation Dept. 296
Rural Water Systems— Tax Exemptions	Sherrel B. McClure	May 24	354
Guntersville—License Tax Allocation	E. Charles Ogden, III	June 27	
TEACHERS Hospital Insurance— Teachers—Cancer Care Directors of Vocation Ed—No Tenure	Roy Johnson	Apr. 11	137
	Jack D. Cook	May 26	271
TENURE Directors of Vocational Education—No Tenure	Jack D. Cook	May 26	271
TRADE SCHOOLS & JUNIOR COLLEGES City Funds—To Trade School In Another City	Carroll Daugherty	June 15	303
TRAFFIC Drivers License—When Produced in Court Recorder's Court—No Mayoral Intervention	Frontis S. Winford	Apr. 28	263
	Arthur Lee Taylor	June 17	258
UTILITY BOARDS Water & Sewer Board—City of Guin— Public Corporation	C. J. Sullivan	May 5	Civil Defense

— U —

Subject	Addressee	Date	File
Former Mayor—Payment as Water Superintendent	William F. Little	Apr. 21	177
Sewer Line—Sewer Board May Install	C. B. Johnson	May 25	202
Utility Board—Refusal of New Customers	Donald R. Morrison	May 11	203
Water Board—Expenses	A. J. Cooper, Jr.	June 2	39
Prichard Water Board—Expenses	Shafter Summers	June 3	247
Mulga Water/Gas Bd.—Compensation	Dewey Black	May 5	305
Rural Water Systems—Tax Exemptions	Sherrel B. McClure	May 24	298
Independent Utility Board—Employee As Director	James S. Sledge	June 30	352
License Tax—Fixed By State Law	Jerry W. Jackson	May 23	364
	— V —		
VETERANS Veterans Affairs Director—Attorney's Fees	W. W. Wadsworth	June 9	Veterans Affairs
VETERANS ADMINISTRATION Condominium—Insured Loan	L. H. Kloess, Jr.	May 6	281
VOCATIONAL CENTERS Directors of Vocational Education—No Tenure	Jack D. Cook	May 26	271
	— W —		
WARRANTS Search Warrant—Sufficiency	Thomas F. Sweeney	Apr. 1	126
WATER Birmingham Water Works—Cahaba River	Jack E. Ravan	Apr. 14	185
Water Works—County Funds	Bruce Gargis	June 22	62
Rural Water Systems—Tax Exemptions	Sherrel B. McClure	May 24	296

WATER WELL STANDARDS BOARD Act 263 & 266, 1977 Regular Session— Unconstitutional

WATER WELLS

Water Well Drilling—
License For Test Well

W. T. Willis
May 25
Water Well
Standards Board

Thomas J. Joiner
Apr. 29
Gas & Oil Bd.

WINSTON COUNTY

Winston County—Clerk Hire
Allowance

Waymon W. Elam
Apr. 28
155

Legislative Act—Population Classification

Hoyt Elliott
June 28
346

— Z —

ZONING

Zoning—Restrictive Covenants
Gulf Shores—Zoning Ordinance
Citronelle—Zoning

Eugene Ingram
Apr. 28
154
Douglas Capps
Apr. 12
239
C. B. Johnson
June 8
202